

AMENDED IN SENATE APRIL 29, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 593

Introduced by Senator McGuire

February 27, 2015

An act to add Article 12 (commencing with Section 53170) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 593, as amended, McGuire. Residential units for tourist or transient use: hosting platforms.

The California Constitution authorizes a county or city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

This bill would require an operator of a hosting platform, as defined, to report specified information quarterly to the city, county, or city and county. The bill would authorize a city, county, or city and county, by ordinance, to opt out from receiving reports and to subsequently opt back in, with 90 days' advance notice of that ordinance to the operator of a hosting platform and to impose a fine or penalty on an operator that fails to provide the report, as specified. The bill would prohibit an operator of a hosting platform from facilitating the rental of a residential unit offered for occupancy for tourist or transient use, if such a use of that residential unit, or the offering of that residential unit for such a use, is prohibited by an ordinance of the city, county, or city and county in which that residential unit is located. The bill would authorize a city, county, or city and county, by ordinance, to establish a fine or penalty on an operator of a hosting platform, as specified, for a knowing

violation of this provision. The bill would ~~also~~ authorize a city, county, or city and county to require an operator of a hosting platform to collect and remit applicable local transient occupancy tax.

This bill would also require the operator of a hosting platform to disclose specified information regarding insurance coverage in the hosting platform agreement with an offeror.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 12 (commencing with Section 53170) is
2 added to Chapter 1 of Part 1 of Division 2 of Title 5 of the
3 Government Code, to read:

4
5 Article 12. Thriving Communities and Sharing Economy Act
6

7 53170. This article shall be known, and may be cited, as the
8 Thriving Communities and Sharing Economy Act.

9 53171. (a) For purposes of this ~~section~~ *article*:

10 (1) "Hosting platform" means a marketplace that is created for
11 the primary purpose of facilitating the rental of a residential unit
12 offered for occupancy for tourist or transient use for compensation
13 to the offeror of that unit, and the operator of the hosting platform
14 derives revenues, including booking fees or advertising revenues,
15 from providing or maintaining that marketplace. "Facilitating"
16 includes, but is not limited to, the act of allowing the offeror of
17 the residential unit to offer or advertise the residential unit on the
18 Internet Web site provided or maintained by the operator.

19 (2) "Offeror" includes an owner or lessee of a residential unit.

20 (3) "Residential unit" means a dwelling unit in a private
21 residence, including a single-family residence, an apartment or
22 other leased premises, a residential condominium unit, or any other
23 residential real estate improvement. "Residential unit" does not
24 include individual guest rooms, condominium units, timeshare
25 units, cabins, or similar guest accommodations rented to transient
26 guests in a hotel, inn, or similar transient lodging establishment
27 operated by an innkeeper, as defined in subdivision (a) of Section
28 1865 of the Civil Code.

1 (b) (1) Except as provided in paragraph (2), the operator of a
2 hosting platform shall report quarterly to the city, county, or city
3 and county all of the following information:

4 (A) The address of each residential unit that was offered on the
5 operator's hosting platform for occupancy for tourist or transient
6 use and was occupied for that use during that quarterly period.

7 (B) The total number of nights that the residential unit was
8 occupied for tourist or transient use.

9 (C) The amounts paid for the occupancy of that residential unit.

10 (2) A city, county, or city and county may, by ordinance, opt
11 out from receiving reports from an operator of a hosting platform
12 under paragraph (1) at any time and, subsequently, may, by
13 ordinance, opt back in to receive the reports. A city, county, or
14 city and county shall provide the operator of a hosting platform
15 with 90 days' advance notice of an ordinance adopted under this
16 paragraph.

17 (3) A city, county, or city and county may, by ordinance,
18 establish a fine or penalty on an operator of a hosting platform that
19 fails to provide a report required pursuant to this subdivision not
20 to exceed the amount of one thousand dollars (\$1,000) for the first
21 failure, two thousand dollars (\$2,000) for the second failure, and
22 five thousand dollars (\$5,000) for a third or subsequent failure, to
23 be imposed after the city, county, or city and county has provided
24 written notice to the operator of the failure, has given the operator
25 an opportunity to provide the report within 30 days of receiving
26 the written notice, and the operator failed to provide the report
27 within that period.

28 (4) Any civil fines or penalties shall be paid to the city, county,
29 or city and county that established the fine or penalty.

30 (c) (1) An operator of a hosting platform shall not facilitate the
31 rental of a residential unit offered for occupancy for tourist or
32 transient use if such a use of that residential unit, or the offering
33 of that residential unit for such a use, is prohibited by an ordinance
34 of the city, county, or city and county in which that residential unit
35 is located.

36 (2) A city, county, or city and county may, by ordinance,
37 establish a civil fine or penalty on an operator of a hosting platform
38 that knowingly violates this subdivision not to exceed the amount
39 of one thousand dollars (\$1,000) per day for the first violation,
40 two thousand dollars (\$2,000) per day for a second violation, and

1 five thousand dollars (\$5,000) per day for a third or subsequent
2 violation. An operator of a hosting platform shall be deemed to
3 have knowingly violated this subdivision if a city, county, or city
4 and county has previously provided the operator with a copy,
5 including a copy in electronic form, of its ordinance prohibiting
6 the use of a residential unit located within its boundaries for
7 occupancy for tourist or transient use, or the offering of that unit
8 for such a use, has given written notice of a known violation to
9 the operator, has given the operator an opportunity to cease
10 facilitating the rental of that residential unit within 30 days of
11 receiving the written notice, and the operator failed to cease within
12 that period.

13 (3) Any civil fines or penalties shall be paid to the city, county,
14 or city and county that established the fine or penalty.

15 (d) A city, county, or city and county may require the operator
16 of a hosting platform to collect applicable transient occupancy tax
17 imposed by that local agency, and to remit that tax to that agency.

18 *53172. An operator of a hosting platform shall disclose the*
19 *following in the hosting platform agreement with an offeror:*

20 *(a) That an offeror should review his or her home or renter's*
21 *insurance policy to ensure that there is appropriate insurance*
22 *coverage in the event that a person sustains an injury or loss on*
23 *the offeror's property, a person damages or causes loss to an*
24 *offeror's personal or real property, or a claim or lawsuit is made*
25 *against the offeror or otherwise arises out of activities related to*
26 *the hosting platform. If an offeror does not have the appropriate*
27 *insurance coverage, the operator of the hosting platform shall*
28 *encourage the offeror to obtain the appropriate insurance coverage*
29 *protection.*

30 *(b) If the operator of the hosting platform provides insurance*
31 *coverage, that the insurance coverage is provided and the limits*
32 *of liability. If the insurance provided by the operator of the hosting*
33 *platform is excess, secondary, or contingent upon an offeror's*
34 *home or rental insurance, the operator of the hosting platform*
35 *shall explicitly explain to the offeror when the offeror's insurance*
36 *is primary or first in line to cover liabilities arising out of the*
37 *activities relating to the hosting platform.*