

# PROPOSED

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2020, Legislative Day No. 5

Bill No. 21-20

Introduced by Ms. Pickard, Chair  
(by request of the County Executive)

By the County Council, March 2, 2020

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Introduced and first read on March 2, 2020  
Public Hearing set for April 6, 2020  
Bill Expires June 5, 2020

By Order: JoAnne Gray, Administrative Officer

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## A BILL ENTITLED

1 AN ORDINANCE concerning: Finance, Taxation, and Budget – Use or Occupancy Tax –  
2 Licenses and Registrations – Short-term Residential Rentals

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4 FOR the purpose of amending the definition of “rent” as it relates to the use or occupancy  
5 tax and the registration of short-term residential rentals; making technical corrections;  
6 and generally relating to finance, taxation, and budget and licenses and registrations.

7  
8 BY repealing and reenacting, with amendments: § 4-6-105  
9 Anne Arundel County Code (2005, as amended) (as amended by Bill 88-19)

10  
11 BY repealing: § 11-13A-101(5)  
12 Anne Arundel County Code (2005, as amended) (as amended by Bill 89-19)

13  
14 BY adding: § 11-13A-101(5)  
15 Anne Arundel County Code (2005, as amended) (as amended by Bill 89-19)

16  
17 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
18 *That § 11-13A-101(5) of the Anne Arundel County Code (2005, as amended) (and as*  
19 *amended by Bill No. 89-19) is hereby repealed.*

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21 SECTION 2. *And be it further enacted,* That Section(s) of the Anne Arundel County  
22 Code (2005, as amended) (and as amended by Bill Nos. 88-19 and 89-19) read as follows:

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EXPLANATION: CAPITALS indicate new matter added to existing law.  
[[Brackets]] indicate matter deleted from existing law.  
Captions and taglines in **bold** in this bill are catchwords and are not law.

1                                   **ARTICLE 4. FINANCE, TAXATION, AND BUDGET**

2  
3                                   **TITLE 6. TAXES ON SERVICES AND COMMODITIES**

4  
5   **4-6-105. Use or occupancy tax.**

6  
7       **(a) Definitions.** In this section, the following words have the meanings indicated.

8  
9           (1) “Additional rent” means the rent **[[paid]]** PROVIDED by an occupant to a  
10 remarketer that is in excess of the net rent.

11  
12           (2) “Collecting authority” means the County Controller except as provided in  
13 subsection (k).

14  
15           (3) “Net rent” means the rent received by an owner or operator from a remarketer.

16  
17           (4) “Occupant” means a person who uses or occupies a short-term rental.

18  
19           (5) “Owner or operator” means a person who possesses or has an ownership interest  
20 in a short-term rental or is engaged in the business of operating short-term rentals.

21  
22           (6) “Remarketer” means a person, other than the owner or operator of a short-term  
23 rental, who has the right, access, ability or authority, through an internet transaction or any  
24 other means, to offer, reserve, book, arrange for, remarket, distribute, broker, or resell  
25 short-term rentals subject to the tax levied under this section, and the term includes a  
26 hosting platform. For purposes of this definition, “hosting platform” means an internet-  
27 based entity that, in exchange for rent, facilitates reservations and booking transactions of  
28 short-term residential rentals.

29  
30           (7) (i) “Rent” means the MONETARY OR NON-MONETARY consideration **[[paid]]** for  
31 the use or occupancy of a short-term rental in the County.

32  
33                   (ii) “Rent” includes both the “net rent” and the “additional rent” when the use  
34 or occupancy of a short-term rental is reserved, booked, brokered, or otherwise arranged  
35 for by a remarketer and the full amount of the rent is not **[[paid]]** PROVIDED by the occupant  
36 directly to the owner or operator.

37  
38                   (iii) “Rent” includes charges for services and booking fees that are a condition  
39 of use or occupancy and any amount for which credit is allowed by the owner or operator  
40 or remarketer to the occupant.

41  
42                   (iv) “Rent” does not include charges for optional services provided by the  
43 owner or operator of a short-term rental to the occupant that are in addition to the charge  
44 for use or occupancy and that are set forth separately on the bill presented to the occupant.

45  
46                   (v) “RENT” INCLUDES THE SHORT-TERM RENTAL RATE APPLICABLE TO THE  
47 GENERAL PUBLIC ON THE DATE A SHORT-TERM RENTAL IS OCCUPIED IF THE SHORT-TERM  
48 RENTAL IS OCCUPIED:

1                   1. WITHOUT THE OCCUPANT PROVIDING ANY MONETARY CONSIDERATION;  
2 OR

3  
4                   2. THE OCCUPANT PROVIDING MONETARY CONSIDERATION LESS THAN THE  
5 SHORT-TERM RENTAL RATE APPLICABLE TO THE GENERAL PUBLIC.  
6

7           (8) “Short-term rental” means a facility that offers sleeping accommodations to the  
8 transient public for rent, including a hotel, motel, inn, bed and breakfast home, bed and  
9 breakfast inn, rooming house, as defined in § 18-1-101 of this Code, and short-term  
10 residential rentals. For purposes of this definition, “short-term residential rental” means the  
11 use or occupancy, facilitated by a hosting platform in exchange for rent, of all or part of a  
12 dwelling unit to provide accommodations to transient guests for no more than 120  
13 consecutive days in a calendar year.  
14

15           **(b) Levy and amount of tax.** There is an occupancy tax levied on the rent **[[paid]]** for  
16 the use of a short-term rental in the County. The rate of the tax is 7% of the rent. The  
17 occupancy tax levied under this section shall be considered the hotel tax referred to in § 20-  
18 603 of the Local Government Article of the State Code.  
19

20           **(c) Calculation and collection; no remarketer.** If the full amount of the rent is **[[paid]]**  
21 PROVIDED by the occupant directly to the owner or operator of a short-term rental, the  
22 owner or operator shall collect the tax from the occupant and remit the tax to the collecting  
23 authority as provided in subsection (g).  
24

25           **(d) Calculation and collection; remarketer.** If the use or occupancy of a short-term  
26 rental is reserved, booked, or otherwise arranged for by a remarketer and the full amount  
27 of the rent is not **[[paid]]** PROVIDED by the occupant directly to the owner or operator, the  
28 remarketer shall:  
29

30           (1) for a short-term rental other than a short-term residential rental, collect the tax  
31 from the occupant based on the net rent and remit the tax to the owner or operator who  
32 shall remit it to the collecting authority as provided in subsection (g);  
33

34           (2) collect the tax from the occupant based on the additional rent and remit the tax  
35 to the collecting authority as provided in subsection (g); and  
36

37           (3) for a short-term residential rental, collect the tax from the occupant based on the  
38 net rent and remit the tax to the collecting authority as provided in subsection (g), but the  
39 **[[host]]** OWNER OR OPERATOR shall remit the tax to the collecting authority if the  
40 remarketer fails to do so.  
41

42           **(e) Exemptions.** The tax does not apply to the rent **[[paid]]** for the use or occupancy of  
43 a short-term rental that continues for 120 or more consecutive days, provided that this  
44 exemption does not apply to a remarketer that offers, reserves, books, arranges for,  
45 remarkets, distributes, brokers, or resells a short-term rental for use or occupancy by others.  
46

47           **(f) Registration.** An owner or operator or remarketer that offers, reserves, books,  
48 arranges for, remarkets, distributes, brokers, or resells short-term rentals subject to the tax  
49 levied under this section shall register with the collecting authority on the form prescribed  
50 by the collecting authority.

1 (g) **Remittance and reports.** The tax [[collected by an owner or operator or  
2 remarketer]] shall be remitted to the collecting authority no later than the 25th day of each  
3 month. Each month, regardless of whether the tax levied under this section is collected, an  
4 owner or operator or remarketer shall file with the collecting authority a fully completed  
5 return on forms prescribed by the collecting authority that sets forth the amount of taxes  
6 [[collected during]] DUE FOR the preceding period and such other information as the  
7 collecting authority may require. At the discretion of the Controller, a short-term residential  
8 rental owner or operator may be allowed to submit a return on a quarterly basis.

9  
10 (h) **Failure to remit or collect tax; failure to register.**

11  
12 (1) An owner or operator or remarketer that fails to collect, remit, or file a fully  
13 completed return for the tax levied by this section within the time prescribed shall be  
14 assessed the amount of tax due, interest at the rate of 0.5% for each month or fraction of a  
15 month, and a penalty of 10% of the tax due. The interest and penalty shall be collected as  
16 part of the tax.

17  
18 (2) An owner or operator or remarketer that fails to register as required by  
19 subsection (f) shall be subject to a civil penalty of \$1,000 in addition to any other amount  
20 owed under this subsection.

21  
22 (i) **Refunds.** If a taxpayer has erroneously, illegally, or unconstitutionally paid the tax  
23 levied by this section, the collecting authority shall refund the tax if the refund is applied  
24 for in writing within three years after payment of the tax, and if there is good and sufficient  
25 grounds for the refund. The application shall be in the form approved by the collecting  
26 authority, signed by both the taxpayer and the proper officer of the owner or operator or  
27 remarketer, and submitted to the collecting authority.

28  
29 (j) **Purchaser or assignee.** Not less than 10 days before taking possession or control  
30 of a [[a]] short-term rental that is subject to the tax levied by this section, the purchaser,  
31 transferee, or assignee shall notify the collecting authority by certified mail of the sale,  
32 transfer, conveyance, or assignment. The notice shall set forth the name and mailing  
33 address of the purchaser, transferee, or assignee, and the anticipated date of taking  
34 possession or control. If notice to the collecting authority is not provided or if the collecting  
35 authority informs the purchaser, transferee, or assignee that a possible claim for taxes  
36 exists, the sums of money, property, or choses in action, or other consideration in which  
37 the purchaser, transferee, or assignee has an interest are subject to a first priority, right, and  
38 lien to the County, or the Mayor and Aldermen of the City of Annapolis, as appropriate,  
39 for the tax. The purchaser, transferee, or assignee is liable to the extent of the amount of  
40 the claim for unpaid taxes due under this section.

41  
42 (k) **Collecting authority.** Except as otherwise provided by an agreement executed in  
43 accordance with this subsection, the collecting authority for the tax levied by this section  
44 is the County Controller. For the tax levied on the occupancy of short-term rentals located  
45 in the City of Annapolis, the County may enter into an agreement with the Mayor and  
46 Aldermen of the City of Annapolis delegating to the City of Annapolis the authority to act  
47 as collecting authority.

1  
2                   **ARTICLE 11. LICENSES AND REGISTRATIONS**

3  
4                   **TITLE 13A. SHORT-TERM RESIDENTIAL RENTALS**

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6           **11-13A-101. Definitions.**

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8           In this title, the following words have the meanings indicated:

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10                   (5) "RENT" HAS THE MEANING STATED IN § 4-6-105 OF THIS CODE.

11  
12           SECTION 3. *And be it further enacted*, That this Ordinance shall take effect 45 days  
13 from the date it becomes law.