

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 66

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO ONLINE LODGING MARKETPLACES; AMENDING TITLE 55, IDAHO CODE, BY
2 THE ADDITION OF A NEW CHAPTER 13, TITLE 55, IDAHO CODE, TO DEFINE TERMS,
3 TO PROVIDE LIMITATIONS ON REGULATION OF VACATION RENTALS AND SHORT-TERM
4 RENTALS, TO PROVIDE A STATEWIDE STANDARD, TO PROVIDE FOR A TRANSACTION
5 TAX AND TO PROVIDE FOR PRIVACY.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Title 55, Idaho Code, be, and the same is hereby amended
9 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
10 ter 13, Title 55, Idaho Code, and to read as follows:

11 CHAPTER 13

12 ONLINE LODGING MARKETPLACES

13 55-1301. DEFINITIONS. As used in this chapter:

14 (1) "Lodging accommodations" means any space offered to the public for
15 lodging, including any hotel, motel, inn, tourist home or house, dude ranch,
16 resort, campground, studio or bachelor hotel, lodging house, rooming house,
17 residential home, apartment house, dormitory, public or private club, mo-
18 bile home or house trailer at a fixed location or other similar structure or
19 space.

20 (2) "Lodging marketplace" means a person that provides a platform
21 through which an unaffiliated third party offers to rent a vacation rental
22 or short-term rental to an occupant and collects the consideration for the
23 rental from the occupant. For the purposes of this definition, "unaffili-
24 ated third party" means a person that is not owned or controlled, directly or
25 indirectly, by the same interests.

26 (3) "Lodging operator" means a person that rents to an occupant any
27 lodging accommodation offered through a lodging marketplace.

28 (4) "Lodging transaction" means a charge to an occupant by a lodging op-
29 erator for the occupancy of any lodging accommodation.

30 (5) "Vacation rental" or "short-term rental" means any individually or
31 collectively owned single-family house or dwelling unit or any unit or group
32 of units in a condominium, cooperative or timeshare, or owner-occupied resi-
33 dential home that is offered for a fee and for less than thirty (30) consec-
34 utive days. Vacation rental or short-term rental does not include a unit that
35 is used for any nonresidential use, including retail, restaurant, banquet
36 space, event center or another similar use.

37 55-1302. LIMITATIONS ON REGULATION OF VACATION RENTALS AND SHORT-TERM
38 RENTALS -- STATEWIDE STANDARD. (1) A city, county, or other political subdi-
39 vision may not prohibit vacation rentals or short-term rentals.

1 (2) A city, county or other political subdivision may not adopt or en-
2 force any law, ordinance, regulation or plan that prohibits or regulates
3 short-term rentals except as provided in this section. A city may not re-
4 strict the use of or regulate vacation rentals or short-term rentals based on
5 their classification, use or occupancy. A city, county or other political
6 subdivision may adopt or enforce a law, ordinance, regulation or plan that
7 regulates short-term rentals for the following purposes:

8 (a) Protection of the public's health and safety, including rules and
9 regulations related to fire and building codes, health and sanitation,
10 transportation or traffic control, solid or hazardous waste and pollu-
11 tion control, provided enforcement would not expressly or in practical
12 effect prohibit the use of a property as a short-term rental, and desig-
13 nation of an emergency point of contact if the city, county or other po-
14 litical subdivision demonstrates that the rule or regulation is for the
15 primary purpose of protecting the public's health and safety.

16 (b) Adopting and enforcing residential use and zoning ordinances, in-
17 cluding ordinances related to noise, protection of welfare, property
18 maintenance and other nuisance issues if the ordinance is applied in the
19 same manner as other similar properties.

20 (c) Limiting or prohibiting the use of vacation rentals or short-term
21 rentals for the purposes of housing sex offenders, operating or main-
22 taining a structured sober living home, selling illegal drugs, liquor
23 control or pornography, obscenity, nude or topless dancing and other
24 adult-oriented businesses.

25 (3) This section does not apply to private entities or homeowners' as-
26 sociations.

27 55-1303. TRANSACTION TAX AND MUNICIPAL TAX LICENSE AND RENEWAL, REVO-
28 CATION, AND VIOLATION. (1) A lodging marketplace shall register with the
29 state tax commission for a license for the payment of taxes levied by this
30 state and one (1) or more counties, cities, or political subdivisions, at the
31 election of the lodging marketplace, for taxes due from a lodging operator on
32 any lodging transaction facilitated by the lodging marketplace.

33 (2) Notwithstanding any other provision of law to the contrary, a lodg-
34 ing operator shall be entitled to an exclusion from any applicable taxes for
35 any lodging transaction facilitated by a lodging marketplace for which the
36 lodging operator has obtained from the lodging marketplace written notice
37 that the lodging marketplace is registered with the state tax commission to
38 collect applicable taxes for all lodging transactions facilitated by the
39 lodging marketplace, and transaction history documenting tax collected by
40 the lodging marketplace.

41 (3) A lodging marketplace that is registered with the state tax commis-
42 sion shall not be required to list or otherwise identify any individual lodg-
43 ing operator.

44 55-1304. PRIVACY. (1) Except as allowed in subsection (2) of this sec-
45 tion, the state tax commission may not disclose information provided by a
46 lodging marketplace without the written consent of the lodging marketplace.
47 Such information is not subject to disclosure pursuant to requirements re-
48 lating to public records in chapter 1, title 74, Idaho Code, and may not be

1 disclosed to any agency of this state or of any county, city, town or other
2 political subdivision of this state.

3 (2) The state tax commission may disclose confidential information
4 provided by a lodging marketplace only to:

5 (a) The taxpayer whom the information concerns.

6 (b) The office of the attorney general solely for its use in an investi-
7 gation or proceeding involving tax administration.

8 (c) Any person, only to the extent necessary for: effective tax admin-
9 istration in connection with the processing, storage, transmission,
10 destruction and reproduction of the information; the programming,
11 maintenance, repair, testing and procurement of equipment for purposes
12 of tax administration; or the collection of the taxpayer's civil lia-
13 bility.

14 (d) Any state or federal judicial or administrative proceeding per-
15 taining to tax administration, if the taxpayer is a party to the
16 proceeding and the proceeding arose out of, or in connection with, de-
17 termining the taxpayer's civil or criminal liability, or the collection
18 of the taxpayer's civil liability, with respect to any tax imposed under
19 this chapter. However, nothing in this section shall be interpreted to
20 limit the right to protect confidential information.