Legislation Text

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Amending Chapter 9-3900 of The Philadelphia Code, entitled "Property Licenses and Owner Accountability," Chapter 14-600 of The Philadelphia Code, entitled "Use Regulations," and Chapter 19-2400 of The Philadelphia Code, entitled "Hotel Room Rental Tax," to facilitate short-term rentals of accommodations, to clarify the imposition and collection of Hotel Tax on the same, and to make technical and clarifying changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-1100 of The Philadelphia Code is amended to read as follows:

CHAPTER 9-1100. FAIR PRACTICES ORDINANCE: PROTECTIONS AGAINST UNLAWFUL DISCRIMINATION.

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§9-1109. Exemptions from Unlawful Housing and Real Property Practices.

(1) Nothing in § 9-1108 shall:

* * *

(b) Apply to the rental or leasing of a room or rooms in a personal residence or the furnishing of facilities or services in connection therewith*, except in the case of Limited Lodging, as defined in § 14-604(13)*.

* * *

SECTION 2. Chapter 9-3900 of The Philadelphia Code is amended to read as follows:

CHAPTER 9-3900. PROPERTY LICENSES AND OWNER ACCOUNTABILITY.

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§ 9-3902. Rental Licenses.

(1) Required.

(a) The owner of any dwelling unit, multiple family dwelling, rooming house, dormitory, hotel, one-family dwelling, two-family dwelling, or rooming unit let for occupancy must obtain a rental license. No

person shall collect rent with respect to any property that is required to be licensed pursuant to this Section unless a valid rental license has been issued for the property. *For purposes of this subsection, the operator of limited lodging, not the booking agent (both terms as used in § 14-604(13)), shall be treated as the person collecting rent, whether or not the booking agent collects rent on behalf of the operator.*

(b) Exceptions.

(i) If a building contains multiple dwelling units, a single rental license may be obtained for the entire building.

(ii) A rental license is not required for any dwelling unit that is occupied by the owner or a member of the owner's family, provided that the Department may require the owner to submit an Affidavit of Non-Rental.

(iii) A rental license shall not be required for limited lodging activity, as defined at § 14-604 (13), so long as the activity is compliant with the Zoning Code and the primary resident is the owner of the dwelling unit.

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SECTION 3. Chapter 14-600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 14-600. USE REGULATIONS.

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§ 14-604. Accessory Uses and Structures.

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(13) Limited Lodging

(a) General.

Limited lodging is the accessory use of a dwelling unit for temporary rental for occupancy for dwelling, sleeping or lodging. The standards of this section are intended to ensure that limited lodging will not be a detriment to the character and livability of the surrounding neighborhood.

(b) Categories of Limited Lodging.

Two categories of limited lodging are recognized, and both shall comply with the standards provided in § 14-604(13)(c) (Standards). Limited lodging shall only be permitted when arranged through a booking agent as defined in § 19-2401.

(.1) Limited lodging, Short Term.
The accommodation of visitors conducted in a dwelling unit, the primary use of which is for household living, and where the total accommodations of visitors provided is for fewer than ninety-one (91) days per year but where the provision of lodging to any particular visitor is for

no more than thirty (30) consecutive days. This limited use does not require a use permit.

(.2) Limited Lodging Home.
The accommodation of visitors conducted by the primary resident of the dwelling unit, the main use of which is for household living, and where the total accommodations of visitors provided is for greater than ninety (90) days per year but where the provision of lodging to any particular visitor is for no more than thirty (30) consecutive days. In no instance may limited lodging be provided for more than one hundred eighty (180) days per year. For purposes of this subsection, the primary resident shall mean either (i) the owner of the dwelling unit that is entitled to a homestead exclusion pursuant to Code § 19-1301.1; or (ii) a renter (a) who lives in the dwelling unit more than half of the year and (b) who is authorized by the owner to provide limited lodging. A Limited Lodging Home is required to obtain a use permit. See Code § 14-104(2).

(c) Standards.

A dwelling unit may be used for limited lodging subject to compliance with all of the following minimum requirements:

(.1) The dwelling unit shall remain as a household living unit with housekeeping facilities in common, but not to allow for occupancy by more than three persons (including the owner and lodgers) who are unrelated by blood, marriage, adoption, or foster-child status, or are not Life Partners.

(.2) Limited lodging must be accessory and secondary to the use of a dwelling unit for residential household living purposes.

(.3) Limited lodging may not result in changes to the residential character of the residential building in which it is located. No separate building entrance that is visible from the street may be provided for the sole use of the limited lodging.

(.4) The limited lodging may not adversely affect the residential character of the neighborhood. Limited lodging may not, for example, generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her residence.

(.5) Accessory signs are prohibited.

(.6) Guests of lodgers shall be allowed only between the hours of 8:00 a.m. and 12:00 a.m.

(.7) Smoke alarms and carbon monoxide alarms shall be installed throughout the dwelling unit per the Philadelphia Fire Code.

(.8) Lodgers shall be notified of the trash and recycle collection days for the property and any applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property. Proper containers shall be provided for the lodgers.

(.9) Lodgers shall be notified that excessive noise is prohibited per § 10-400 of The Philadelphia Code and such violators shall be subject to fines and penalties.

(.10) The primary resident conducting the limited lodging shall maintain records for a minimum of one (1) year demonstrating primary residency (either entitlement to a Homestead Exemption or, for a renter, residence for more than half the year); the dates of limited lodging and the number of lodgers. Such records shall be made available upon request of any officer of the City responsible for enforcement of any provision of The Philadelphia Code pertaining to the use and occupancy of the dwelling for limited lodging purposes.

(.11) The owner or his/her designee shall provide contact information to the limited lodgers for the purpose of responding to complaints regarding the condition, operation or conduct of the occupants of the dwelling and have the responsibility to take action to resolve such complaints.

(.12) All limited lodging is subject to the Fair Practices Ordinance, Chapter 9-1100.

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SECTION 4. Chapter 19-2400 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2400. HOTEL ROOM RENTAL TAX.

§ 19-2401. Definitions.

In this Chapter the following words and phrases shall have the meanings given to them in this Section unless the context clearly requires otherwise:

(1) Authority or Pennsylvania Convention Center Authority. An agency and public instrumentality of this Commonwealth and a body politic and corporate created pursuant to the Act of June 27, 1986 (P.L. 124, No. 70).

(1.1) Booking Agent. Any person or entity that facilitates reservations or collects payment for hotel accommodations on behalf of or for an operator. Merely publishing an advertisement for accommodations does not make the publisher a booking agent.

* * *

(5) Hotel. A hotel, motel, inn, guesthouse or other building located within the City which holds itself out by any means including advertising, license, registration with any innkeeper's group, convention listing association, travel publication or similar association or with any government agency as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry, provided that portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition.

(6) Occupancy. The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the

furnishings or to the services accompanying the use and possession of the room.

(7) Operator. Any individual, partnership, non-profit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of, or otherwise possess the right to rent or lease overnight accommodations in any hotel to the public for consideration.

* * *

§ 19-2402. Imposition and Rate of Hotel Room Rental Tax.

(1) There is hereby imposed an excise tax on the consideration received by each operator of a hotel within the City from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the City pursuant to Sections 19-2403 and 19-2405 and shall be known as the Hotel Room Rental Tax. *However, a booking agent, acting for an operator, may collect and remit the tax, and an operator shall not be responsible for collecting and remitting the Hotel Room Rental Tax on any transaction for which it has received confirmation that the booking agent has collected and remitted the tax.*

* * *

§ 19-2402.1. Imposition and Rate of Tourism and Marketing Tax.

(1) There is hereby imposed, in addition to the tax imposed by the preceding Section 19-2402 and notwithstanding the maximum rate of tax set forth in said Section, an excise tax of one percent (1%) on the consideration received by each operator of a hotel within the City from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the City pursuant to Sections 19-2403 and 19-2405 and shall be known as the Tourism and Marketing Tax. *However, a booking agent, acting for an operator, may collect and remit the tax, and an operator shall not be responsible for collecting and remitting the Tourism and Marketing Tax on any transaction for which it has received confirmation that the booking agent has collected and remitted the tax.*

§ 19-2402.2. Imposition and Rate of Hospitality Promotion Tax.

(1) There is hereby imposed, in addition to the tax imposed by the preceding Sections 19-2402 and 19-2402.1 and notwithstanding any maximum rate of tax set forth therein, an excise tax of one and two-tenths percent (1.2%) on the consideration received by each operator of a hotel within the City from each transaction of renting a room or rooms to accommodate transients.

(2) There is hereby imposed, in addition to the tax imposed by the preceding Sections 19-2402 and 19-2402.1 and subsection (1) hereof and notwithstanding any maximum rate of tax set forth therein, an excise tax of three-tenths percent (0.3%) on the consideration received by each operator of a hotel within the City from each transaction of renting a room or rooms to accommodate transients.

(3) The taxes imposed pursuant to this Section shall be collected by the operator from the patron of the room and paid over to the City pursuant to Sections 19-2403 and 19-2405 and shall collectively be known as the Philadelphia Hospitality Promotion Tax. *However, a booking agent, acting for an operator, may collect and remit the tax, and an operator shall not be responsible for collecting and remitting the Philadelphia*

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Hospitality Promotion Tax on any transaction for which it has received confirmation that the booking agent has collected and remitted the tax.

§ 19-2403. Deposit and Distribution of Tax Revenues.

(1) The Department shall collect the tax from the operator *or booking agent* and deposit the revenues received from the tax in special funds established for purposes set forth herein. Interest on moneys deposited in the funds shall accrue proportionately to the respective funds as provided herein. The Department is hereby authorized to establish rules and regulations concerning the collection of the tax.

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§ 19-2405. Reports, Returns, Payment and Collection of Tax.

(1) All taxes collected by any operator *or any booking agent* in accordance with this Chapter shall constitute a trust fund for the City and such trust shall be enforceable against such person and any person receiving any part of such fund without consideration, or knowing that the operator *or booking agent* is committing a breach of trust; provided, however, that any person receiving payment of a lawful obligation of the operator *or booking agent* from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.

(2) The operator shall collect the tax imposed by this Chapter from the patron of the room and pay it over to the City as provided hereinafter. The operator, if he fails to collect the tax or pay it to the City when due, shall be liable to the City for the payment of the tax to the Department as provided in this Section*, unless the operator has confirmation that the booking agent has collected and remitted tax on the transaction*.

(3) Every report and return shall be made upon a form furnished by the Department.

(4) Every operator *or booking agent collecting for an operator* shall transmit to the Department, on or before the fifteenth (15th) day of each month, a return for the month preceding the month in which the return is made, which return shall report the amount of consideration received for the transactions during the month for which the return is made, the amount of tax due from the operator *or booking agent* for that month, and such other information as the Department may require.

(5) Every operator *or booking agent collecting for an operator*, at the time of filing every return required by this Section shall compute and pay to the Department the taxes shown as due on the return for the period for which the return is made.

(6) Every operator shall maintain records, which shall be made available to the Department upon its request, which shall include, but not be limited to, the number of transactions in each hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each occupancy, the consideration received from all transactions during the month for which each return is made, as well as such other information as the Department may require. *Every booking agent shall maintain the same records with respect to any operator for which it collects.*

(7) The tax due pursuant to this Chapter shall be collected and paid over to the City as though it were a continuation of the tax imposed by prior Chapter 19-2400, enacted pursuant to the act of December 7,

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1982 (P.L. 808, No. 220), known as the First Class City Hotel Room Rental Tax Act, which act, in accordance with the provisions of Section 24 of the Pennsylvania Convention Center Authority Act, June 27, 1986 (P.L. 124, No. 70), shall be repealed on the effective date of this Chapter.

(8) If an operator enters the business of the renting of hotel rooms *or a booking agent begins collecting on behalf of an operator* subsequent to the effective date of this Chapter, the first return shall be filed on the fifteenth (15th) day of the first month subsequent thereto. The first return and tax payment due shall be for all transactions occurring during the preceding month based upon the actual taxable transactions during the preceding month.

(9) Upon the Department's request, any booking agent shall provide a list of all operators in Philadelphia that have listed hotels with it, including the hotel's address, the operator's contact information and any other requested information.

(10) Any booking agent that lists one or more hotels in Philadelphia and that does not colect the tax on behalf of all the operators of such hotels shall provide the Department quarterly within 30 days of the end of the calendar quarter a list of all Philadelphia hotels that it listed the prior calendar year but for which it did not collect and remit, along with their addresses, their operators' contact information and any other requested information.

(11) Any booking agent that lists one or more Philadelphia hotels (i) shall, at the time any operator first lists a Philadelphia hotel with it, notify the operator of the operator's tax and license obligations to the City; and (ii) shall annually provide all operators of one or more Philadelphia hotels with a reminder of their tax and license obligations to the City. In both cases, the booking agent shall use language provided or approved by the Department.

(12) Any booking agent or operator who fails to file any return or report required under this § 19-2405 *shall be subject to a maximum fine of $2000 per occurrence. A separate offense shall be deemed to occur on the first day of each month the failure to file continues.*

SECTION 5. This Ordinance shall be effective July 1, 2015.

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