



# HOUSE OF REPRESENTATIVES

SB 1350

online lodging; administration; definitions

Prime Sponsor: Senator Lesko, LD 21

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**DP** Committee on Ways and Means  
**DPA** Caucus and COW  
**X** Transmitted to the Governor

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## OVERVIEW

SB 1350 establishes regulations for online lodging, vacation and short-term rental operations.

## PROVISIONS

### *Vacation Rental and Short-Term Rental Regulations*

1. Prohibits a city, town or county from restricting the use or regulation of vacation rentals and short-term rentals based upon their classification, use or occupancy.
2. Specifies that a city, town or county may regulate vacation rentals or short-term rentals if the regulation is meant to protect public health and safety, including fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution control and the designation of an emergency contact.
3. Allows a city, town or county to regulate vacation rentals or short-term rentals for the purpose of adopting and enforcing residential use and zoning ordinances, including ordinances relating to noise, welfare, property maintenance and other nuisance issues.
4. States that a city, town or county may limit or prohibit the use of vacation rentals or short-term rentals for each of the following purposes: housing sex offenders, maintaining a structured sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.
5. Specifies that an owner of a vacation rental or short-term rental is still obligated to provide required residential rental property information to the county assessor.
6. States that a vacation rental or short-term rental does not include any units used for nonresidential purposes.

### *Online Lodging: Taxation*

7. Allows an online lodging marketplace to register with the DOR for a license for the payment of taxes levied by the state or a political subdivision thereof for any online lodging transactions.
8. Requires an online lodging marketplace licensed with DOR to remit all taxes for each online lodging transaction facilitated by the marketplace.
9. Specifies that an online lodging marketplace must remit the aggregate total amount for all respective taxing jurisdictions and report taxes monthly to DOR.
10. Specifies that the activities of any online lodging marketplace are not classified as transient lodging.
11. Provides that an online lodging marketplace is not required to list or identify any individual online lodging operator on any return.

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12. Exempts the gross proceeds or gross income received by an online lodging operator from any taxes for online lodging transactions made by an online lodging marketplace, for which there is written notice that the marketplace is registered with DOR for the collection of taxes and documentation of tax collected.
13. Stipulates that a city, town or other taxing jurisdiction may levy TPT, use, franchise or other similar taxes or fees on an online lodging marketplace if the following requirements are met:
  - a. The adopted tax is administered, collected and enforced by DOR and remitted to the city, town or other taxing jurisdiction in a uniform manner.
  - b. The adopted tax is uniform upon online lodging operators and other taxpayers of the same class within the jurisdictional boundaries of the city, town or other jurisdiction.
  - c. Any adopted tax is subject to provisions relating to audits, confidential information, judicial enforcement, registration of online lodging marketplaces and tax returns.
14. Requires that the adopted tax a city, town or other taxing jurisdiction levies on an online lodging marketplace is uniform with the treatment of online lodging operators and online lodging transactions, except that:
  - a. The adopted tax may be different from the state tax rate.
  - b. The adopted tax may apply to online lodging transactions involving rentals of lodging accommodations for more than 29 or more consecutive days. The adopted tax must uniformly apply to all lodging accommodations for 30 consecutive days or more, and the tax base must be limited to online lodging transactions facilitated by an online lodging marketplace for rentals of lodging accommodations for 30 consecutive days or more.

### ***Online Lodging Classification***

15. Establishes the Online Lodging Marketplace Classification of TPT is comprised of businesses of operating an online lodging marketplace that are registered with the DOR for a license to collect tax.
16. Specifies that the Online Lodging Marketplace Classification of TPT does not include any online lodging marketplace that has not entered into an agreement with DOR to register for a license to collect tax.
17. States that the tax base for the online lodging marketplace classification is the gross proceeds of sales or gross income derived from the business measured by the total amount charged for an online transient lodging transaction by the online lodging operator.
18. Establishes that the tax rate of this classification is 5.5% of the tax base.

### ***Property Manager Tax Returns***

19. Allows a property manager who is licensed with DOR to file an electronic consolidated tax return with DOR, monthly, with respect to gross proceeds or gross income derived from the individual properties under management on behalf of the property owners.
20. Requires DOR to administer, collect and enforce the tax paid under an electronic consolidated return and remit the collected revenue to the appropriate city or town.
21. Specifies that the tax may not be collected from any property owner whose licensee has provided written documentation to the property owner and to the city or town that the licensee has reported and remitted or will report and remit the applicable tax with respect to the property under management.
22. Requires DOR to develop an electronic consolidated return form that separately identifies each owner's property locations and the gross income and deductions for each property location.

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23. Requires a licensed real estate broker to file the return electronically using the consolidated return form developed by DOR.
24. Specifies that all participating property owners included in the same electronic consolidated return must be on the same tax payment schedule and use the same cash receipts or accrual basis of reporting.
25. Establishes that a licensed real estate broker is responsible and accountable to the property owner and to the city or town for fully and accurately reporting and paying to DOR the tax and any other amounts due.
26. Specifies that a real estate broker licensed with DOR for the payment of taxes subject to audit of the electronic consolidated returns, including data in the licensee's possession that is used in compiling and filing the electronic consolidated returns.
27. Establishes that the property owner remains ultimately responsible, accountable and liable for both the accuracy of the information given to the licensed real estate broker and for the return and payment of the full tax amount.
28. Specifies that the property owners are subject to audit of the records in the property owner's possession that are submitted to the licensed real estate broker for the electronic consolidated return.
29. Allows the property owner to withdraw any property from the electronic consolidated return on 30 day's written notice to the licensed real estate broker, DOR and the tax collector of the city or town.

### ***Hospitality Studies Scholarship Fund***

30. Establishes a Hospitality Studies Scholarship Fund, used to provide scholarships to students entering into or enrolled in a hospitality studies program at any university under the Arizona Board of Regents (ABOR) for the purpose of defraying educational costs such as room and board.
31. Requires a recipient who withdraws from the school or from the hospitality studies program before receiving a degree to repay all scholarship monies awarded to the recipient.
32. Specifies that if a recipient of the Hospitality Studies Scholarship Fund is dismissed from the university, ABOR will negotiate an appropriate repayment schedule, plus 8% interest.
33. Allows ABOR to partner with any statewide lodging and tourism association that provides matching monies in administering the fund.

### ***Joint Legislative Study Committee on Transient Lodging***

34. Establishes the 16-member Joint Legislative Study Committee on Transient Lodging for the purposes of considering current state and local government laws and regulations on transient lodging businesses.
35. Allows the Joint Legislative Study Committee to request industry data from relevant state agencies during an annual committee meeting to be held on or before September 15, 2017 and annually thereafter.
36. Requires the Joint Legislative Study Committee to report the committee's findings and any recommendations on or before December 15, 2017, and each year after, to the President of the Senate, Speaker of the House of Representatives, the Governor and provide a report to the Secretary of State.
37. Repeals and terminates the Joint Legislative Study Committee on December 31, 2020.
38. Specifies that the Joint Legislative Study Committee will consist of:

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- a. Three members of the Senate appointed by the President of the Senate with no more than two members from the same political party and one of whom who will serve as co-chair.
- b. Three members of the House of Representative appointed by the Speaker of the House of Representatives with no more than two members of the same political party and one of whom who will serve as co-chair.
- c. One member appointed by the President of the Senate who uses a residential home as a short-term rental through an online lodging marketplace.
- d. One member appointed by the Speaker of the House of Representatives, who manages or operates a hotel, motel or bed and breakfast business.
- e. One representative of an association of cities and towns in this state, appointed by the President of the Senate.
- f. One representative of an association of counties in this state that represents a county board of supervisors, appointed by the Speaker of the House of Representatives.
- g. One representative of an online lodging marketplace, appointed by the President of the Senate.
- h. One representative of a statewide lodging and tourism association, appointed by the Speaker of the House of Representatives.
- i. One representative of a taxpayer organization in, appointed by the President of the Senate.
- j. One representative of a statewide association representing licensed real estate professionals, appointed by the Speaker of the House of Representatives.
- k. One representative of a statewide multihousing association, appointed by the President of the Senate.
- l. One representative of a convention and visitor's bureau in this state, appointed by the Speaker of the House of Representatives.

### *Miscellaneous*

39. Classifies real and personal property and improvements, used for leasing or renting to lodgers, as class four property, except for:
  - a. Property occupied by the owner as the primary residence, included in class three.
  - b. Property used for commercial purposes as classified in class one.
40. Defines terms.
41. Makes technical and conforming changes.
42. Contains an applicability clause.
43. Sets an effective date of January 1, 2017

### **CURRENT LAW**

TPT is imposed on a vendor for the privilege of conducting business in Arizona. Under this tax, the seller is responsible for remitting to the state the entire amount of tax due based on the gross proceeds or gross income of the business. While the tax is commonly passed on to the consumer at the point of sale, it is ultimately the seller's responsibility to remit the tax.

TPT is broken down into 16 different classifications. The transient lodging classification is comprised of the business of operating for the occupancy of *transients*—any person who either at their own or another's expense obtains lodging space on a daily or weekly basis for less than 30 consecutive days. The classification includes hotels or motels, inns, tourist homes, dude ranches, resorts, campgrounds and other similar establishments. Transient lodging does not include convalescent homes or facilities, rental of a mobile home or house trailers at a fixed structure and renting four or fewer rooms at a bed and

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breakfast. The tax base for the transient lodging classification is the gross proceeds of sales or gross income derived from the business (A.R.S. §42-5070).

A.R.S. § 42-5005 stipulates that every person who receives income that is subject to TPT must apply to DOR for an annual TPT license in order to engage in or continue business. The license is valid only for the calendar year in which it was issued, but may be renewed each year.