HB220

FY8JC5C-2

By Representatives Ellis, Collins, Brown

RFD: Ways and Means General Fund

First Read: 22-Feb-24

A BILL

TO BE ENTITLED

AN ACT

Relating to transient occupancy tax; to establish the Alabama Tourism Tax Protection Act of 2024; to define an accommodations intermediary, accommodations provider, and room charge; and to provide that an accommodations provider intermediary shall collect the tax imposed.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-26-1.1 is added to the Code of Alabama 1975, to read as follows:

§40-26-1.1.

(a) This act shall be known and cited as the Alabama Tourism Tax Protection Act of 2024.

(b) For the purposes of this act, the following terms have the following meanings:

(1) ACCOMMODATIONS INTERMEDIARY. Any person, firm, or corporation, other than an accommodations provider, that facilitates renting, furnishing, lodging, or accommodation transactions subject to the tax levied under Section 40-26-1 and charges a room fee or an accommodations fee to the customer, which it retains as compensation for such facilitation. Facilitating transactions include brokering,

coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

(2) ACCOMMODATIONS PROVIDER. Any person, firm, or corporation engaging in the business of transactions subject to the tax levied under Section 40-26-1 that has an active lodgings tax account with the department and collects and remits lodgings tax on such accommodations that are rented directly by the owner of such accommodation.

(3) HOTEL. Any public lodging establishment that is owned by a single entity or person; contains 15 or more individual sleeping room accommodations; offers rental units with daily or weekly rates; has a central office on the property with specified hours of operation; has a bathroom for each rental unit; is recognized as a hotel in the community in which it is situated; and possesses a permit from the Alabama Department of Public Health to operate as a hotel.

(4) MERCHANT OF RECORD. The legally authorized and responsible entity that processes customer payments for the sale of goods or services within the state of Alabama.

(5) PROFESSIONAL PROPERTY MANAGEMENT COMPANY. A licensed real estate brokerage firm with a physical storefront location authorized and licensed under Section 34-27-30 to engage in the business of property management services on behalf of property owners.

(6) ROOM CHARGE. The full retail price paid by the guest for an accommodation, including any accommodations fee

and any other fees or charges. This includes the charge for use or rental of personal property and services furnished in the room or accommodation.

(c) Except as provided for in subsection (d), the accommodations intermediary shall collect and remit the tax imposed pursuant to this chapter for the facilitation of lodgings transactions subject to the tax levied under Section 40-26-1, and parallel local levies, for transactions occurring on or after January 1, 2025. The tax shall be imposed on the room charge as defined in this section.

(d) When an accommodations intermediary facilitates the transaction on behalf of an accommodations provider as defined in this section, the taxes collected may be remitted to the accommodations provider when there is an executed written agreement or contract specifying the responsible party for remitting such taxes.

(e) An accommodations intermediary collecting and remitting taxes pursuant to subsection (d) shall not be liable for taxes not remitted by the accommodations provider to the Department of Revenue.

(f) In any accommodation in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the accommodations intermediary.

(g) Every accommodations intermediary and

accommodations provider shall annually submit a report prescribed by the Department of Revenue that includes the physical address of each accommodation that was rented or furnished greater than 14 days during the previous year. The report provided herein is confidential taxpayer information protected under Section 40-2A-10.

(h) The following entities shall be exempt from the provisions of Section 1 of this act:

(1) Professional property management companies that either collect and remit the tax levied pursuant Section 40-26-1, or manage properties leased for a month or more as the principal residence of the tenant.

(2) Hotels that collect and remit the tax levied pursuant to Section 40-26-1.

(3) A destination marketing organization whose primary purpose is the promotion of tourism and receives funding from taxes collected and remitted pursuant to Section 40-26-1.

(4) Providers of accommodations defined under subsection (d) of 40-26-1, that collect and remit the tax levied pursuant to Section 40-26-1.

Section 2. For any accommodations transactions, subject to the tax levied in Section 40-26-1, through an accommodations intermediary where the accommodations provider has hired a professional property management company to oversee, the professional property management company shall be the merchant of record for such transactions.

Section 3. The Department of Revenue shall adopt rules for the implementation and administration of this act.

Section 4. This act shall become effective October 1, 2024.

House of Representatives

Read for the first time and referred 22-Feb-24
to the House of Representatives
committee on Ways and Means General
Fund

Read for the second time and placed 06-Mar-24
on the calendar:
0 amendments

Read for the third time and passed 04-Apr-24
as amended
Yeas 101
Nays 0
Abstains 0

John Treadwell
Clerk