

FIRST REGULAR SESSION

HOUSE BILL NO. 988

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FREDERICK.

1966H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 67.1175, 137.016, and 315.005, RSMo, and to enact in lieu thereof four new sections relating to transient guests.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 67.1175, 137.016, and 315.005, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 67.1175, 67.5110, 137.016, and
3 315.005, to read as follows:

67.1175. 1. In each lake area business district established pursuant to section 67.1170,
2 there shall be created an advisory board, which shall be a nonprofit entity, to consist of ~~seven~~
3 **nine** members. Six members shall be elected by members of the county lodging association
4 which shall be made up of all businesses that collect the lodging tax. Each lodging business
5 shall be entitled to vote for two members from within its designated category which is defined
6 in this section. Two of the members elected shall each be an owner, operator or administrative
7 employee of a hotel, motel or resort with fifty or less rooms~~;~~ ; two of the members elected shall
8 each be an owner, operator or administrative employee of a hotel, motel or resort with more than
9 fifty rooms but with less than three hundred rooms~~;~~ ; two of the members elected shall each be
10 an owner, operator or administrative employee of a hotel, motel or resort with at least three
11 hundred rooms~~;~~ ; **two of the members shall be owners of residential dwelling rentals, as**
12 **that term is defined under section 67.5110, that are located in the district, chosen as such**
13 **owners deem fit**; and one member shall be a member of the governing body of the county and
14 shall serve on the board in an advisory capacity. As used in this section, the term "administrative
15 employee" means any employee, as determined by the hotel, motel or resort, who has managerial
16 authority over one or more major administrative functions of the hotel, motel or resort. If there

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 are no hotels, motels or resorts in the county which have the number of rooms prescribed for a
18 lodging category under this subsection, members of the lodging association within that category
19 shall elect owners, operators, or administrative employees of hotels, motels or resorts which have
20 the number of rooms prescribed in the other categories. If there are less than six persons who
21 meet the criteria established in this subsection who desire to serve on the board, the number of
22 members on the board who are owners, operators or administrative employees of hotels, motels
23 or resorts shall be reduced to the nearest appropriate even number. Of the members first elected,
24 two members from the county lodging association shall be elected for a term of three years, two
25 members from the county lodging association shall be elected for a term of two years, and two
26 members from the county lodging association shall be elected for a term of one year. Thereafter,
27 each member elected from the county lodging association shall serve a three-year term. The
28 member who is a member of the governing body of the county shall serve for a term of two years
29 and may be reappointed, but shall only serve as long as he continues in his office as a member
30 of the governing body of the county. All members shall serve without compensation. Any
31 vacancy within the three lodging categories shall be filled by a special election within the county
32 lodging association, but the person so elected shall be affiliated with the same size of hotel,
33 motel or resort as the person who vacated the position, and if the person who vacated the position
34 was an appointed member of the governing body of the county, such appointee shall also be a
35 member of the governing body of the county. The board shall elect its own treasurer, secretary
36 and such other officers as it deems necessary and expedient, and it may make such rules,
37 regulations, and bylaws to carry out its duties under sections 67.1170 to 67.1180.

38 2. The advisory board of a lake area business district, on behalf of the district, may:

39 (1) Cooperate with public agencies and with any industry or business located within the
40 district in the implementation of any project;

41 (2) Enter into any agreement with any public agency, person, firm, or corporation to
42 implement any of the provisions of sections 67.1170 to 67.1180;

43 (3) Contract and be contracted with, and sue and be sued;

44 (4) Accept gifts, grants, loans, or contributions from the county in which the district is
45 located, the United States of America, the state of Missouri, political subdivisions, foundations,
46 other public or private agencies, individuals, partnerships, or corporations;

47 (5) Employ such managerial, engineering, legal, technical, clerical, accounting, and other
48 assistance as it may deem advisable;

49 (6) Make final decisions as to how the revenue derived from any tax to be imposed under
50 section 67.1177 shall be used.

67.5110. 1. As used in this section, the following terms mean:

2 (1) "Facilitation platform", an intermediary that facilitates the rental of a
3 residential dwelling rental and collects payment from a transient guest, not including an
4 entity that acts solely as a property manager;

5 (2) "Marketing platform", an intermediary that facilitates the rental of a
6 residential dwelling rental but does not collect payment from a transient guest;

7 (3) "Owner", a person who offers a residential dwelling rental to transient guests;

8 (4) "Political subdivision", any county, city, town, village, or township;

9 (5) "Residential dwelling", any building, structure, or part of the building or
10 structure classified as residential property for real property taxation purposes that is used
11 and occupied for human habitation or intended to be so used, including any appurtenances
12 belonging to it or enjoyed with it. Residential dwelling shall include vacation rentals;

13 (6) "Residential dwelling rental", a residential dwelling or any part thereof where
14 guest rooms are offered for rent to transient guests. This definition shall not include a
15 "time share unit" as defined under section 407.600 or a "lodging establishment" as defined
16 under section 315.005;

17 (7) "Transient guest", any person who rents and occupies a guest room in the same
18 residential dwelling rental for a period of less than thirty-one days; provided, however,
19 that "transient guest" shall not mean an occupant under a lease agreement.

20 2. A political subdivision shall not enforce or, after August 28, 2017, enact an
21 ordinance or law that prohibits or that has the practical effect of prohibiting residential
22 dwelling rentals. No political subdivision shall impose a regulation on residential dwelling
23 rentals that is not also imposed on residential dwellings that are not used for residential
24 dwelling rentals.

25 3. No property owners association shall enforce an ordinance or rule that prohibits
26 or has the practical effect of prohibiting residential dwelling rentals unless such ordinance
27 or rule passed by a unanimous vote of the association members.

28 4. A political subdivision may impose and levy local taxes on the transient guests
29 of a residential dwelling rental; however, such local taxes shall not exceed the rate or tax
30 base as the equivalent local taxes applied to lodging establishments.

31 5. A transient guest shall pay and an owner shall collect and remit any applicable
32 taxes on the occupancy of a residential dwelling rental imposed by the state or by the
33 municipality, county, or local taxing entity in which the residential dwelling is located,
34 whether the tax imposed be a sales tax, hotel tax, occupancy tax, tourism tax or otherwise:

35 (1) If an owner uses a facilitation platform, the facilitation platform shall collect
36 and remit on behalf of the owner any such applicable taxes on the occupancy of a
37 residential dwelling by a transient guest; and

38 **(2) If an owner uses a marketing platform, the marketing platform shall:**

39 **(a) Disclose in its terms of service the obligation to pay any applicable taxes to both**
40 **the transient guest and the owner of the residential dwelling;**

41 **(b) Require as a term of service that the transient guest and the owner of the**
42 **residential dwelling acknowledge the obligation to pay any applicable taxes; and**

43 **(c) Maintain records of any rentals facilitated for a period of three years for audits**
44 **requested by a tax administrator and conducted during normal business hours.**

45 **6. For purposes of the collection and remittance by a facilitation platform of any**
46 **state sales tax on the occupancy of a residential dwelling, the provisions of sections 32.010**
47 **to 32.096, sections 136.101 to 136.380, and sections 144.010 to 144.525 shall apply.**

48 **7. Prior to facilitating a residential dwelling rental to a transient guest, a facilitation**
49 **platform or a marketing platform shall require as a term of service that the owner of a**
50 **residential dwelling rental attests that the residential dwelling rental meets all applicable**
51 **lawful state and local requirements. An owner need not comply with a requirement**
52 **specific to residential dwelling rentals that is not also imposed on all residential dwellings**
53 **as such requirements are unenforceable under subsection 2 of this section.**

137.016. 1. As used in Section 4(b) of Article X of the Missouri Constitution, the
2 following terms mean:

3 (1) "Residential property", all real property improved by a structure which is used or
4 intended to be used for residential living by human occupants, vacant land in connection with
5 an airport, land used as a golf course, manufactured home parks, bed and breakfast inns in which
6 the owner resides and uses as a primary residence with six or fewer rooms for rent, and
7 time-share units as defined in section 407.600, except to the extent such units are actually rented
8 and subject to sales tax under subdivision (6) of subsection 1 of section 144.020, but residential
9 property shall not include other similar facilities used primarily for transient housing. For the
10 purposes of this section, "transient housing" means all rooms available for rent or lease for which
11 the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to
12 subdivision (6) of subsection 1 of section 144.020;

13 (2) "Agricultural and horticultural property", all real property used for agricultural
14 purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding
15 and management of livestock which shall include breeding, showing, and boarding of horses;
16 to dairying, or to any other combination thereof; and buildings and structures customarily
17 associated with farming, agricultural, and horticultural uses. Agricultural and horticultural
18 property shall also include land devoted to and qualifying for payments or other compensation
19 under a soil conservation or agricultural assistance program under an agreement with an agency
20 of the federal government. Agricultural and horticultural property shall further include land and

21 improvements, exclusive of structures, on privately owned airports that qualify as reliever
22 airports under the National Plan of Integrated Airports System, to receive federal airport
23 improvement project funds through the Federal Aviation Administration. Real property
24 classified as forest croplands shall not be agricultural or horticultural property so long as it is
25 classified as forest croplands and shall be taxed in accordance with the laws enacted to
26 implement Section 7 of Article X of the Missouri Constitution. Agricultural and horticultural
27 property shall also include any sawmill or planing mill defined in the U.S. Department of Labor's
28 Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number
29 2421;

30 (3) "Utility, industrial, commercial, railroad and other real property", all real property
31 used directly or indirectly for any commercial, mining, industrial, manufacturing, trade,
32 professional, business, or similar purpose, including all property centrally assessed by the state
33 tax commission but shall not include floating docks, portions of which are separately owned and
34 the remainder of which is designated for common ownership and in which no one person or
35 business entity owns more than five individual units. All other real property not included in the
36 property listed in subclasses (1) and (2) of Section 4(b) of Article X of the Missouri Constitution,
37 as such property is defined in this section, shall be deemed to be included in the term "utility,
38 industrial, commercial, railroad and other real property".

39 2. Pursuant to Article X of the state constitution, any taxing district may adjust its
40 operating levy to recoup any loss of property tax revenue, except revenues from the surtax
41 imposed pursuant to Article X, Subsection 2 of Section 6 of the constitution, as the result of
42 changing the classification of structures intended to be used for residential living by human
43 occupants which contain five or more dwelling units if such adjustment of the levy does not
44 exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this
45 section, loss in revenue shall include the difference between the revenue that would have been
46 collected on such property under its classification prior to enactment of this section and the
47 amount to be collected under its classification under this section. The county assessor of each
48 county or city not within a county shall provide information to each taxing district within its
49 boundaries regarding the difference in assessed valuation of such property as the result of such
50 change in classification.

51 3. All reclassification of property as the result of changing the classification of structures
52 intended to be used for residential living by human occupants which contain five or more
53 dwelling units shall apply to assessments made after December 31, 1994.

54 4. Where real property is used or held for use for more than one purpose and such uses
55 result in different classifications, the county assessor shall allocate to each classification the
56 percentage of the true value in money of the property devoted to each use[;] , except that[;] :

57 **(1)** Where agricultural and horticultural property, as defined in this section, also contains
58 a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to
59 five acres immediately surrounding such farm dwelling shall be residential property, as defined
60 in this section; **and**

61 **(2) No property used for transient housing that qualifies as residential property and**
62 **is used as a residence or vacation home under subsection 1 of this section shall be classified,**
63 **in whole or in part, as anything other than residential property.**

64 5. All real property which is vacant, unused, or held for future use; which is used for a
65 private club, a not-for-profit or other nonexempt lodge, club, business, trade, service
66 organization, or similar entity; or for which a determination as to its classification cannot be
67 made under the definitions set out in subsection 1 of this section, shall be classified according
68 to its immediate most suitable economic use, which use shall be determined after consideration
69 of:

70 (1) Immediate prior use, if any, of such property;

71 (2) Location of such property;

72 (3) Zoning classification of such property; except that, such zoning classification shall
73 not be considered conclusive if, upon consideration of all factors, it is determined that such
74 zoning classification does not reflect the immediate most suitable economic use of the property;

75 (4) Other legal restrictions on the use of such property;

76 (5) Availability of water, electricity, gas, sewers, street lighting, and other public services
77 for such property;

78 (6) Size of such property;

79 (7) Access of such property to public thoroughfares; and

80 (8) Any other factors relevant to a determination of the immediate most suitable
81 economic use of such property.

82 6. All lands classified as forest croplands shall not, for taxation purposes, be classified
83 as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in
84 Section 4(b) of Article X of the Missouri Constitution and defined in this section, but shall be
85 taxed in accordance with the laws enacted to implement Section 7 of Article X of the Missouri
86 Constitution.

 315.005. As used in sections 315.005 to 315.065, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Code", the standards relating to fire safety, sanitation, electrical wiring, fuel-burning
4 appliances, plumbing, swimming pools and spas, sewage and waste treatment and disposal as
5 adopted by the department. The department in its discretion, may incorporate, in whole or in
6 part, the standards or codes promulgated by the National Fire Protection Association, Building

7 Officials and Code Administration International, Inc., Great Lakes Upper Mississippi River
8 Board of State Sanitary Engineers, and American Society of Sanitary Engineers;

9 (2) "Department", the director of the department of health and senior services or an agent
10 of the director of the department of health and senior services;

11 (3) "Guest room", any room or unit where sleeping accommodations are regularly
12 furnished to the public;

13 (4) "Lodging establishment", any building, group of buildings, structure, facility, place,
14 or places of business where five or more guest rooms are provided, which is owned, maintained,
15 or operated by any person and which is kept, used, maintained, advertised or held out to the
16 public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist
17 court, resort, cabins, ~~tourist home,~~ bunkhouse, dormitory, or other similar place by whatever
18 name called, and includes all such accommodations operated for hire as lodging establishments
19 for either transient guests, permanent guests, or for both transient and permanent guests.
20 **Lodging establishment shall not include any property classified as residential property for**
21 **real property taxation purposes;**

22 (5) "Owner", the person responsible for obtaining a license from the department for
23 operating the lodging establishment;

24 (6) "Permanent guest", any person who rents and occupies a guest room in a lodging
25 establishment for a period of thirty-one days or more;

26 (7) "Person", any individual, partnership, corporation, association, organization, firm,
27 or federal, state, county, city, village, or municipal association or corporation;

28 (8) "Transient guest", any person who rents and occupies a guest room in a lodging
29 establishment for a period of less than thirty-one days.

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