

2018 -- H 8324

LC005876

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - TOURISM AND  
DEVELOPMENT

Introduced By: Representatives Carson, Fogarty, Vella-Wilkinson, Ruggiero, and  
Donovan

Date Introduced: June 15, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-63.1-14 of the General Laws in Chapter 42-63.1 entitled  
2 "Tourism and Development" is hereby amended to read as follows:

3 **42-63.1-14. Offering residential units through a hosting platform.**

4 (a) For any residential unit offered for tourist or transient use on a hosting platform that  
5 collects and remits applicable sales and hotel taxes in compliance with § 44-18-7.3(b)(4)(i), § 44-  
6 18-18, and § 44-18-36.1, cities, towns or municipalities shall not prohibit the owner of such  
7 residential unit from offering the unit for tourist or transient use through such hosting platform, or  
8 prohibit such hosting platform from providing a person or entity the means to rent, pay for or  
9 otherwise reserve a residential unit for tourist or transient use. A hosting platform shall comply  
10 with the requirement imposed upon room resellers in § 44-18-7.3(b)(4)(i) and § 44-18-36.1 in  
11 order for the prohibition of this section to apply. The division of taxation shall at the request of a  
12 city, town, or municipality confirm whether a hosting platform is registered in compliance with §  
13 44-18-7.3(b)(4)(i).

14 (b) A hosting platform, prior to allowing any person or entity to offer any property for  
15 tourist or transient use, shall use best practices to establish that the property and the rental of the  
16 property is in compliance with:

17 (1) All applicable local, state and federal laws and regulations governing rental and use of  
18 the property; and

1 (2) All applicable local registration requirements imposed pursuant to any city or town  
2 code or ordinance on transient guest facilities or residential units used for tourist or transient  
3 lodging.

4 (c) A hosting platform which allows any person or entity to offer any residential unit for  
5 tourist or transient use shall provide the owner of the residential unit with a monthly accounting  
6 of any and all tax monies collected by the hosting platform; and, provided further, that such  
7 accounting of taxes collected shall be remitted with any residential dwelling/room rental tax  
8 return to the division of taxation and, if applicable, to the city of Newport.

9 SECTION 2. Section 44-18-7.3 of the General Laws in Chapter 44-18 entitled "Sales and  
10 Use Taxes - Liability and Computation" is hereby amended to read as follows:

11 **44-18-7.3. Services defined.**

12 (a) "Services" means all activities engaged in for other persons for a fee, retainer,  
13 commission, or other monetary charge, which activities involve the performance of a service in  
14 this state as distinguished from selling property.

15 (b) The following businesses and services performed in this state, along with the  
16 applicable 2007 North American Industrial Classification System (NAICS) codes, are included in  
17 the definition of services:

18 (1) Taxicab and limousine services including but not limited to:

19 (i) Taxicab services including taxi dispatchers (485310); and

20 (ii) Limousine services (485320).

21 (2) Other road transportation service including but not limited to:

22 (i) Charter bus service (485510);

23 (ii) "Transportation network companies" (TNC) defined as an entity that uses a digital  
24 network to connect transportation network company riders to transportation network operators  
25 who provide prearranged rides. Any TNC operating in this state is a retailer as provided in § 44-  
26 18-15 and is required to file a business application and registration form and obtain a permit to  
27 make sales at retail with the tax administrator, to charge, collect, and remit Rhode Island sales  
28 and use tax; and

29 (iii) All other transit and ground passenger transportation (485999).

30 (3) Pet care services (812910) except veterinary and testing laboratories services.

31 (4) (i) "Room reseller" or "reseller" means any person, except a tour operator as defined  
32 in § 42-63.1-2, having any right, permission, license, or other authority from or through a hotel as  
33 defined in § 42-63.1-2, to reserve, or arrange the transfer of occupancy of, accommodations the  
34 reservation or transfer of which is subject to this chapter, such that the occupant pays all or a

1 portion of the rental and other fees to the room reseller or reseller, room reseller or reseller shall  
2 include, but not be limited to, sellers of travel packages as defined in this section [and any hosting](#)  
3 [platform pursuant to § 42-63.1-2](#). Notwithstanding the provisions of any other law, where said  
4 reservation or transfer of occupancy is done using a room reseller or reseller, the application of  
5 the sales and use tax under §§ 44-18-18 and 44-18-20, and the hotel tax under § 44-18-36.1 shall  
6 be as follows: The room reseller or reseller is required to register with, and shall collect and pay  
7 to, the tax administrator the sales and use and hotel taxes, with said taxes being calculated upon  
8 the amount of rental and other fees paid by the occupant to the room reseller or reseller, less the  
9 amount of any rental and other fees paid by the room reseller or reseller to the hotel. The hotel  
10 shall collect and pay to the tax administrator said taxes upon the amount of rental and other fees  
11 paid to the hotel by the room reseller or reseller and/or the occupant. No assessment shall be  
12 made by the tax administrator against a hotel because of an incorrect remittance of the taxes  
13 under this chapter by a room reseller or reseller. No assessment shall be made by the tax  
14 administrator against a room reseller or reseller because of an incorrect remittance of the taxes  
15 under this chapter by a hotel. If the hotel has paid the taxes imposed under this chapter, the  
16 occupant and/or room reseller or reseller, as applicable, shall reimburse the hotel for said taxes. If  
17 the room reseller or reseller has paid said taxes, the occupant shall reimburse the room reseller or  
18 reseller for said taxes. Each hotel and room reseller or reseller shall add and collect, from the  
19 occupant or the room reseller or the reseller, the full amount of the taxes imposed on the rental  
20 and other fees. When added to the rental and other fees, the taxes shall be a debt owed by the  
21 occupant to the hotel or room reseller or reseller, as applicable, and shall be recoverable at law in  
22 the same manner as other debts. The amount of the taxes collected by the hotel and/or room  
23 reseller or reseller from the occupant under this chapter shall be stated and charged separately  
24 from the rental and other fees, and shall be shown separately on all records thereof, whether made  
25 at the time the transfer of occupancy occurs, or on any evidence of the transfer issued or used by  
26 the hotel or the room reseller or the reseller. A room reseller or reseller shall not be required to  
27 disclose to the occupant the amount of tax charged by the hotel; provided, however, the room  
28 reseller or reseller shall represent to the occupant that the separately stated taxes charged by the  
29 room reseller or reseller include taxes charged by the hotel. No person shall operate a hotel in this  
30 state, or act as a room reseller or reseller for any hotel in the state, unless the tax administrator has  
31 issued a permit pursuant to § 44-19-1.

32 (ii) "Travel package" means a room, or rooms, bundled with one or more other, separate  
33 components of travel such as air transportation, car rental, or similar items, which travel package  
34 is charged to the customer or occupant for a single, retail price. When the room occupancy is

1 bundled for a single consideration, with other property, services, amusement charges, or any other  
2 items, the separate sale of which would not otherwise be subject to tax under this chapter, the  
3 entire single consideration shall be treated as the rental or other fees for room occupancy subject  
4 to tax under this chapter; provided, however, that where the amount of the rental, or other fees for  
5 room occupancy is stated separately from the price of such other property, services, amusement  
6 charges, or other items, on any sales slip, invoice, receipt, or other statement given the occupant,  
7 and such rental and other fees are determined by the tax administrator to be reasonable in relation  
8 to the value of such other property, services, amusement charges, or other items, only such  
9 separately stated rental and other fees will be subject to tax under this chapter. The value of the  
10 transfer of any room, or rooms, bundled as part of a travel package may be determined by the tax  
11 administrator from the room reseller's and/or reseller's and/or hotel's books and records that are  
12 kept in the regular course of business.

13 (c) All services as defined herein are required to file a business application and  
14 registration form and obtain a permit to make sales at retail with the tax administrator, to charge,  
15 collect, and remit Rhode Island sales and use tax.

16 (d) The tax administrator is authorized to promulgate rules and regulations in accordance  
17 with the provisions of chapter 42-35 to carry out the provisions, policies, and purposes of this  
18 chapter.

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT - TOURISM AND  
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- 1           This act would require hosting platforms of tourist and transient rental units to provide an  
2 accounting to residential unit owners of any tax monies collected and to follow local, state and  
3 federal laws on rental and use and requires compliance with any local registration requirements.  
4           This act would take effect upon passage.

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