



House Bill 1361

Hotel Rental Tax and Sales and Use Tax - Limited Residential Lodging

MACo Position: **SUPPORT**
with AMENDMENTS

To: Ways & Means Committee

Date: March 9, 2016

From: Michael Sanderson

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1361, **WITH AMENDMENTS**.

This bill would create statewide taxation and oversight for online “hosting platforms” that facilitate short term lodging services. The bill seeks to treat these services similarly to the state and local treatment of conventional hotels and motels.

Overall, a statewide set of ground rules for online hosting platforms could create a clear and simple method for these platforms and their clients to comply with state and local tax laws. As long as the bill remains reasonable and doesn’t needlessly intrude into other local prerogatives, MACo sees such a model as welcome.

The bill’s sponsor and supporters have engaged with MACo and county governments, and MACo is optimistic that an amended bill could resolve several local concerns.

Standardize Fairly, With Reasonable Overhead

A core element of the bill is to create a standardized definition and “base” for state and local taxation of these hosting platforms. In concept, MACo does not object to a universally applied definition of lodging that fairly aligns with local hotel/motel taxes. HB 1361 needs clearer language to draw this line appropriately – to correctly identify commercial transactions and the appropriate components of the taxable base.

Counties also seek to ensure that the administrative costs of the state regulation be limited to those direct and reasonable costs attributed to its collection. MACo pledges to work with the Committee to develop language to satisfy this goal.

Preserve Local Action Already In Place

While the bill seeks to address an anticipated gap in local laws, it has the effect of overriding or preempting local action. Two jurisdictions, Baltimore City and Montgomery County, have introduced and expect to enact local ordinances to apply their local tax structure to these transactions. MACo

urges the Committee to defer to these locally-tailored solutions, and to limit the effect of any statewide bill to those jurisdictions not acting prior to a certain date (consider: legislation introduced by May 1, 2016 and enacted by September 1, 2016).

Avoid Inadvertent Pre-emption

While the bill nominally applies only to taxation, Maryland court cases have found implied pre-emption by broad state actions. MACo seeks clarifying sections in HB 1361 to explicitly rule out any inadvertent preemption of local zoning, safety ordinances, code requirements, or other matters traditionally and properly the province of local governments.

For these reasons, MACo **SUPPORTS** HB 1361 **WITH AMENDMENTS**, and urges the Committee to consider these important local issues as part of an anticipated refinement of the bill.