LRB104 21738 HLH 37582 b

# 104TH GENERAL ASSEMBLY

# State of Illinois

# 2025 and 2026

## HB5776

by Rep. Will Guzzardi

## SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.1038 new
30 ILCS 105/6z-149 new
310 ILCS 130/15

Creates the Short-Term Rental Excise Tax Act. Imposes a tax upon renters of short-term rentals at the rate of 4% of the rental price of those short-term rentals. Provides that the proceeds from the tax shall be deposited into the Community Land Trust Fund. Amends the State Finance Act to create the Community Land Trust Fund. Provides that moneys in the Community Land Trust Fund shall be used by the Illinois Housing Development Authority for development, staffing, and capacity building and technical assistance related to community land trusts in the State. Amends the Community Land Trust Home Ownership Act. Makes changes to the definition of community land trust. Effective immediately.

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A BILL FOR

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Short-Term Rental Excise Tax Act.

Section 5. Definitions. As used in this Act:

"Department" means the Department of Revenue.

"Hosting platform" means a person who provides an online application, software, website, or system through which a short-term rental located in this State is advertised or held out to the public as available to rent for occupancy.

"Net revenue realized" means the revenue collected by the State under this Act, less the amount paid out as discounts under Section 40 and refunds to short-term rental operators for overpayment of liability under this Act.

"Occupancy" means the use or possession, or the right to the use or possession, of any short-term rental for any purpose or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the short-term rental.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, or limited liability company or any receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"Renter" means the lessee or tenant of a short-term rental.

"Rental price" means the gross amount of consideration for the occupancy of a short-term rental, valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature. "Rental price" includes any fee, charge, or commission received from a guest by a re-renter of short-term rentals specifically in connection with the re-rental of short-term rentals.

"Re-renter of short-term rentals" means a person who is not employed by the short-term rental operator but who, either directly or indirectly, through agreements or arrangements with third-parties, collects or processes the payment of rent for a short-term rental located in this State and (i) obtains the right or authority to grant control of, access to, or occupancy of a short-term rental in this State to a renter of the short-term rental or (ii) facilitates the booking of a short-term rental in this State.

"Short-term rental" means an owner-occupied, tenant-occupied, or non-owner-occupied dwelling, including, but not limited to, an apartment, house, cottage, or condominium, located in this State, where: (i) at least one room in the dwelling is rented to an occupant for a period of less than 30 consecutive days; and (ii) all accommodations are reserved in advance; provided, however, that a dwelling shall be considered a single room if rented as such.

"Short-term rental marketplace" means a physical or electronic place, forum, platform, application, or other method by which short-term rental operators rent, lease, or let, or offer to rent, lease, or let, short-term rentals.

"Short-term rental marketplace facilitator" means a person who, pursuant to agreements with unrelated third-party short-term rental operators, directly or indirectly through one or more affiliates, facilitates the renting, leasing, or letting of short-term rentals by unrelated third-party short-term rental operators by:

(1) listing or advertising short-term rentals for rent, lease, or letting by short-term rental operators in a short-term rental marketplace, the renting, leasing, or letting of which is subject to tax under this Act; and

(2) collecting, either directly or indirectly, through agreements or arrangements with third parties, payment from renters and transmitting those payments to the short-term rental operator, regardless of whether the short-term rental marketplace facilitator receives compensation or other consideration in exchange for its services.

"Short-term rental marketplace facilitator" includes re-renters of short-term rentals and hosting platforms that otherwise meet the definition of "short-term rental marketplace facilitator" set forth in this Section.

"Short-term rental operator" means any person engaged in the business of renting, leasing, or letting a short-term rental, including any person who rents, leases, or lets short-term rentals through a short-term rental marketplace operated by an unrelated third-party short-term rental marketplace facilitator.

Section 10. Rate; exemptions.

(a) On and after January 1, 2027, a tax is imposed upon each renter for the privilege of renting, leasing, or letting a short-term rental in this State at the rate of 4% of the rental price of that short-term rental. The rental price shall not include taxes or charges that are added on account of the liability arising from this tax or any tax imposed by the State or any governmental agency on the occupation of renting, leasing, or letting or on the privilege of using short-term rentals or hotels, as defined in Section 2 of the Hotel Operators' Occupation Tax Act. The tax imposed under this Act shall be in addition to all other occupation or privilege taxes imposed by the State of Illinois or by any municipal corporation or political subdivision thereof.

(b) The tax imposed by this Act shall be collected from the renter by the short-term rental operator and shall be remitted to the Department as provided in Section 40. Short-term rental operators shall collect the tax from the renter by adding the tax to the charge for the act or privilege of renting, leasing, or letting a short-term rental in this State. The tax imposed by this Act shall, when collected, be stated as a distinct item separate and apart from the gross charge for renting, leasing, or letting a short-term rental. The tax imposed by this Act shall constitute a debt of the renter to the short-term rental operator who provides such taxable services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such taxable services. If the renting, leasing, or letting of a short-term rental is done through a short-term rental marketplace facilitator that has met the tax remittance threshold set forth in Section 15 of this Act, then the short-term rental marketplace facilitator is the short-term rental operator for the purposes of the taxes under this Act.

(c) The tax under this Act is not imposed upon the privilege of engaging in any business in interstate commerce or otherwise, which business may not, under the Constitution and statutes of the United States or under any federal treaty, be made the subject of taxation by this State.

(d) The tax imposed by this Act does not apply to the renting, leasing, or letting of short-term rentals by an entity that is organized and operated exclusively for religious purposes and that possesses an active Exemption Identification Number issued by the Department pursuant to the

Retailers' Occupation Tax Act if the renting, leasing, or letting is in furtherance of the purposes for which the exempt organization is organized. This subsection (d) is exempt from Section 20 of this Act.

(e) The tax imposed by this Act does not apply to the renting, leasing, or letting of short-term rentals by an entity that is organized and operated exclusively by an organization chartered by the United States Congress for the purpose of providing disaster relief and that possesses an active Exemption Identification Number issued by the Department pursuant to the Retailers' Occupation Tax Act if the renting, leasing, or letting is in furtherance of the purposes for which the exempt organization is organized. This subsection (e) is exempt from Section 20 of this Act.

(f) If any short-term rental operator collects an amount, however designated, that purports to be for the renter's tax liability measured by rental charges that are not subject to the short-term rental excise tax under this Act, or if any short-term rental operator, in collecting an amount, however designated, that purports to be for the renter's tax liability measured by rental charges which are subject to the short-term rental excise tax under this Act, collects more from the renter than the renter's short-term rental excise tax liability for the transaction is, the renter shall have a legal right to claim a refund of that amount from the short-term rental operator. If that amount is not refunded to the renter, for any reason, the short-term rental operator is liable to pay that amount to the Department.

Section 15. Short-term rental marketplace facilitators.

(a) A short-term rental marketplace facilitator meets the tax remittance threshold for purposes of this Act if, during the previous 12-month period, the cumulative gross rental receipts received by the short-term rental marketplace facilitator from the renting, leasing, or letting of short-term rentals on the facilitator's own behalf or on behalf of short-term rental operators, not including rental receipts exempt from the tax under subsections (d) and (e) of Section 10 of this Act, are greater than or equal to $100,000. A short-term rental marketplace facilitator who meets the tax remittance threshold and rents, leases, or lets Illinois short-term rentals to renters is subject to all applicable procedures and requirements of this Act.

A short-term rental marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the tax remittance threshold in this Section for the preceding 12-month period. If the short-term rental marketplace facilitator meets the tax remittance threshold for a 12-month period, it is required to collect and remit the tax imposed under this Act and to file all applicable returns for one year. At the end of that one-year period, the short-term rental marketplace facilitator shall determine whether it met the tax remittance threshold for the preceding 12-month period. If the short-term rental marketplace facilitator met the tax remittance threshold for the preceding 12-month period, it is required to continue to collect and remit the tax imposed under this Act and file returns for the subsequent year. If, at the end of a one-year period, a short-term rental marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that it did not meet the tax remittance threshold during the preceding 12-month period, the short-term rental marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the tax remittance threshold for the preceding 12-month period.

A short-term rental marketplace facilitator that meets the tax remittance threshold shall be entitled to any credits, deductions, or adjustments to rental receipts otherwise provided to the short-term rental operator, in addition to any adjustments provided directly to the short-term rental marketplace facilitator, including, but not limited to, adjustments such as discounts, coupons, and rebates. In addition, a short-term rental marketplace facilitator is entitled to the discount provided in Section 40 of this Act on all short-term rental marketplace rentals, leases, or lettings, and the short-term rental operator shall not include rentals, leases, or lettings made through such a short-term rental marketplace facilitator when computing any discount on remaining rentals, leases, or lettings. Short-term rental marketplace facilitators shall report and remit the applicable taxes under this Act on leases, rentals, or lettings facilitated for short-term rental operators separately from any taxes under this Act on taxable rentals, leases, or lettings made directly by the short-term rental marketplace facilitator or its affiliates.

The short-term rental marketplace facilitator that meets the tax remittance threshold is liable for the remittance of all applicable taxes under this Act on rentals, leases, or lettings made through the short-term rental marketplace and is subject to audit on all of those rentals, leases, or lettings. The Department shall not audit short-term rental operators for their short-term rental marketplace rentals, leases, or lettings if the short-term rental marketplace facilitator remitted the applicable taxes under this Act unless the short-term rental marketplace facilitator seeks relief as a result of incorrect information provided to the short-term rental marketplace facilitator by a short-term rental operator as set forth in this Section. The short-term rental marketplace facilitator shall not be held liable for tax on any rentals, leases, or lettings made by a short-term rental operator that take place outside of the short-term rental marketplace and that are not a part of any agreement between a short-term rental marketplace facilitator and a short-term rental operator. In addition, short-term rental marketplace facilitators shall not be held liable to the State of Illinois for having charged and remitted an incorrect amount of tax under this Act if, at the time of the rentals, leases, or lettings, the tax is computed based on erroneous data provided by the State on tax rates, boundaries, or taxing jurisdictions or incorrect information provided to the short-term rental marketplace facilitator by the short-term rental operator.

(b) A short-term rental marketplace facilitator that meets the tax remittance threshold shall:

(1) provide notice to each short-term rental operator at the time of the agreement between the short-term rental marketplace facilitator and short-term rental operator that the short-term rental marketplace facilitator assumes the rights and duties of a short-term rental operator under this Act with respect to rentals, leases, or lettings made by the short-term rental operator through the short-term rental marketplace;

(2) certify, upon request, to the short-term rental operator that the short-term rental marketplace facilitator assumes the rights and duties of a short-term rental operator under this Act with respect to rentals, leases, or lettings made by the short-term rental operator through the short-term rental marketplace; and

(3) collect and remit taxes imposed by this Act as required by this Act for all rentals, leases, and lettings

made through the short-term rental marketplace.

(c) For any rentals, leases, and lettings made through a short-term rental marketplace involving 2 or more parties that meet the definition of short-term rental marketplace facilitator, nothing in this Act shall prohibit those parties from making an agreement regarding which party shall be responsible for collecting and remitting taxes imposed by this Act, so long as the party so responsible is registered with the State for the purposes of remitting the taxes imposed by this Act. If the parties enter into an agreement described in this subsection, the party that agrees to collect and remit the taxes imposed by this Act shall be the sole party liable for the taxes imposed by this Act, and the other parties to the agreement are not liable for the tax. Any party subject to such an agreement must keep a copy of the agreement in its books and records and provide a copy to the Department upon request.

(d) A short-term rental marketplace facilitator is subject to audit on all short-term rental marketplace rentals, leases, and lettings for which it is the short-term rental operator but shall not be liable for tax or subject to audit on rentals, leases, or lettings made by short-term rental marketplace operators outside of the short-term rental marketplace.

(e) Nothing in this Act shall allow the Department to collect short-term rental excise taxes from both the short-term rental marketplace facilitator and the short-term rental operator on the same transaction.

Section 20. Sunset of exemptions, credits, and deductions. The application of every exemption, credit, and deduction against the tax imposed by this Act shall be limited by a reasonable and appropriate sunset date. A taxpayer is not entitled to take the exemption, credit, or deduction beginning on the sunset date and thereafter. If a reasonable and appropriate sunset date is not specified in the Public Act that creates the exemption, credit, or deduction, a taxpayer shall not be entitled to take the exemption, credit, or deduction beginning 5 years after the effective date of the Public Act creating the exemption, credit, or deduction and thereafter.

Section 25. Books and records. Every short-term rental operator, every short-term rental marketplace facilitator that is required to collect and remit the tax under this Act, and every renter making direct tax payments to the Department under this Act, shall keep separate books or records of his business as a short-term rental operator or short-term rental marketplace facilitator so as to show the rents and occupancies taxable under this Act separately from his transactions that are not taxable under this Act. A short-term rental operator's books and records shall also include certificates provided by the short-term rental marketplace facilitator under paragraph (2) of subsection (b) of Section

15 of this Act for all rentals, leases, and lettings made through a short-term rental marketplace in accordance with the requirements of this Act. If any short-term rental operator or short-term rental marketplace facilitator fails to keep such separate books or records, that short-term rental operator or short-term rental marketplace facilitator shall be liable for the tax at the rate designated in Section 10 of this Act upon the entire proceeds from the short-term rental operator's or short-term rental marketplace facilitator's business. The Department may adopt rules that establish requirements, including record forms and formats, for records required to be kept and maintained by short-term rental operators and short-term rental marketplace facilitators. For purposes of this Section, "records" means all data maintained by the short-term rental operator or short-term rental marketplace facilitator, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation.

Section 30. Certificate of registration. It shall be unlawful for any person to engage in business as a short-term rental operator in this State without a certificate of registration from the Department. A certificate of registration issued to the short-term rental operator under the Hotel Operators' Occupation Tax Act shall enable the person to engage in business as a short-term rental operator under this Act without the necessity of registering separately.

All of the provisions of Sections 2a and 2b of the Retailers' Occupation Tax Act, in effect on the effective date of this Act, as subsequently amended, shall apply to short-term rental operators to the same extent as if those provisions were included in this Act.

Section 35. Tax collected as debt owed to State. Any short-term rental operator required to collect the tax imposed by this Act shall be liable to the Department for the tax, whether or not the tax has been collected by the short-term rental operator, and any such tax shall constitute a debt owed by the short-term rental operator to this State. To the extent that a short-term rental operator required to collect the tax imposed by this Act has actually collected that tax, the tax is held in trust for the benefit of the Department.

Section 40. Returns. Except as otherwise provided in this Section, on or before the last day of each calendar month, every person engaged in business as a short-term rental operator in this State during the preceding calendar month shall file a return with the Department, stating:

(1) the name of the short-term rental operator;

(2) the short-term rental operator's residence address, the address of the short-term rental operator's principal place of business, and the address of the

principal place of business (if that is a different address) from which the short-term rental operator engages in business as a short-term rental operator in this State (including, if required by the Department, the address of each short-term rental from which rental receipts were received);

(3) the total amount of short-term rental receipts received by the short-term rental operator during the preceding calendar month;

(4) the total amount of exclusions from the short-term rental excise tax allowed by this Act;

(5) the total amount of short-term rental excise tax collected during the preceding calendar month from renting, leasing, or letting short-term rentals during such preceding calendar month;

(6) the amount of tax due; and

(7) such other reasonable information as the Department may require.

If the short-term rental operator's average monthly tax collected and due to the Department does not exceed $200, the Department may authorize the short-term rental operator's returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 30 of such year; with the return for April, May and June of a given year being due by July 31 of such year; with the return for July, August and September of a given year being due by October 31 of such year, and with the return for October, November and December of a given year being due by January 31 of the following year.

If the short-term rental operator's average monthly tax collected and due to the Department does not exceed $50, the Department may authorize the short-term rental operator's returns to be filed on an annual basis, with the return for a given year being due by January 31 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act concerning the time within which a short-term rental operator may file the short-term rental operator's return, in the case of any short-term rental operator who ceases to engage in a kind of business that makes the short-term rental operator responsible for filing returns under this Act, such short-term rental operator shall file a final return under this Act with the Department not more than one month after discontinuing such business.

Where the same person has more than one business registered with the Department under separate registrations under this Act, such person shall not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

In the return, the short-term rental operator shall determine the value of any consideration other than money received by him in connection with engaging in business as a short-term rental operator and the short-term rental operator shall include such value in the short-term rental operator's return. Such determination shall be subject to review and revision by the Department in the manner provided for the correction of returns.

Where the short-term rental operator is a corporation, the return filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

The person filing the return shall, at the time of filing the return, pay to the Department the amount of tax imposed and collected under this Act. The short-term rental operator filing the return shall, at the time of filing, pay to the Department the amount of tax collected under this Act less a discount of 2.1% or $25 per calendar year, whichever is greater, which is allowed to reimburse the short-term rental operator for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request.

If any payment provided for in this Section exceeds the short-term rental operator's liabilities under this Act, as shown on an original return, the Department may authorize the short-term rental operator to credit such excess payment against liability subsequently to be remitted to the Department under this Act, in accordance with reasonable rules adopted by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the short-term rental operator, the short-term rental operator's discount shall be reduced by an amount equal to the difference between the discount as applied to the credit taken and that actually due, and that short-term rental operator shall be liable for penalties and interest on such difference.

If a short-term rental marketplace facilitator is required to collect and remit the tax under this Act, the provisions of this Section apply to the short-term rental marketplace facilitator as if the short-term rental marketplace facilitator had been the short-term rental operator.

Section 45. Incorporation of Retailers' Occupation Tax Act and Uniform Penalty and Interest Act. All of the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11 and 12 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act that are not inconsistent with this Act shall apply to the renting, leasing, or letting of short-term rentals in this State to the same extent as if such provisions were included in this Act. References in those incorporated Sections of the Retailers' Occupation Tax Act to retailers, sellers, or persons engaged in the business of selling tangible personal property mean short-term rental operators. References in those incorporated Sections of the Retailers' Occupation Tax Act to purchasers of tangible personal property mean renters of short-term rentals. References in those incorporated Sections of the Retailers' Occupation Tax Act to sales of tangible personal property mean the act or privilege of renting, leasing, or letting short-term rentals as defined in this Act.

Section 50. Allocation of proceeds. All of the net revenue realized from the tax imposed under this Act for the preceding month shall be deposited each month into the Community Land Trust Fund.

Section 55. Tax paid by renter. If a renter does not pay the tax imposed by this Act to a short-term rental operator or short-term rental marketplace facilitator, that renter shall file a return with the Department and pay the tax upon that portion of gross charges so paid to the short-term rental operator during the preceding calendar month no later than the last day of the month following that month. Those returns shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require.

If a renter pays a tax imposed by this Act directly to the Department, the Department (upon request from the renter) shall issue an appropriate receipt to the renter showing that the renter has paid the tax to the Department. That receipt shall be sufficient to relieve the renter from further liability for the amount of tax to which such receipt may refer.

If it appears that an amount of tax or penalty or interest under this Act has been paid in error to the Department by a renter, as distinguished from the short-term rental operator or short-term rental marketplace facilitator, whether such amount be paid through a mistake of fact or an error of law, that renter may file a claim for credit or refund with the Department.

Section 60. Penalties. Any short-term rental operator, short-term rental marketplace facilitator, or renter who fails to make a return, or who makes a fraudulent return, or who wilfully violates any other provision of this Act or any rule or regulation of the Department for the administration and enforcement of this Act, is guilty of a Class 4 felony.

Section 65. Rulemaking. The Department shall adopt rules to implement and administer this Act. The Department may adopt rules in accordance with the Illinois Administrative Procedure Act and prescribe forms relating to the administration and enforcement of this Act as it deems appropriate.

Section 70. Illinois Administrative Procedure Act adopted. The Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that: (1) paragraph (b) of Section 501 of the Illinois Administrative Procedure Act does not apply to final orders, decisions and opinions of the Department; (2) subparagraph (a)2 of Section 5-10 of the Illinois Administrative Procedure Act does not apply to forms established by the Department for use under this Act; and (3) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decisions are excluded and not applicable to the Department under this Act to the extent Section 10-45 applies to hearings not otherwise subject to the Illinois Independent Tax Tribunal Act of 2012.

Section 900. The State Finance Act is amended by adding Sections 5.1038 and 6z-149 as follows:

(30 ILCS 105/5.1038 new)

Sec. 5.1038. The Community Land Trust Fund.

(30 ILCS 105/6z-149 new)

Sec. 6z-149. The Community Land Trust Fund; creation. The Community Land Trust Fund is created as a special fund in the State treasury. The Fund may accept moneys from any lawful source. Any interest earned on moneys in the Fund shall be deposited into the Fund. Moneys in the Fund shall be used by the Illinois Housing Development Authority for development, staffing, and capacity building and technical assistance related to community land trusts in the State. As used in this Section, "community land trust" has the meaning given to that term in the Community Land Trust Home Ownership Act.

Section 905. The Community Land Trust Home Ownership Act is amended by changing Section 15 as follows:

(310 ILCS 130/15)

Sec. 15. Definitions. As used in this Act:

"501(c)(3) organization" means a nonprofit organization that is exempt or qualified for exemption from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986.

"Community land trust" means a 501(c)(3) organization that has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences subject to all of the following criteria:

(1) All single-family residences or multifamily residences located on the land owned by the 501(c)(3) organization or its wholly owned subsidiary must be either:

(A) sold to a buyer who is qualified under the community land trust's program rules and occupied as the qualified buyer's primary residence; or

(B) rented to a person or persons whose household income does not exceed the maximum allowable gross household income, as determined by the community land trust, for that dwelling or unit.

(2) Land that is owned by the 501(c)(3) organization and that contains a single-family residence or multifamily residence that is sold to a qualified buyer described in subparagraph (A) of paragraph (1) shall be leased to the qualified buyer for the buyer's convenient occupation and use, subject to a ground lease with affordability restrictions, for a renewable term of 99 years for the purpose of maintaining dwellings or units that are permanently affordable.

(3) In the case of dwellings or units that are part of a condominium, cooperative, or other common interest development and that are located on land that is owned by a homeowners' association or a person other than the community land trust, the condominium unit or interest owned by the community land trust shall be sold to a qualified buyer for the buyer's convenient occupation and use, subject to a deed restriction or affordability covenant that incorporates affordability restrictions for a renewable term of at least 99 years and that is recorded against the unit or interest for the purpose of maintaining dwellings or units that are permanently

affordable. ~~governed by a board of community land trusts residents, community residents, and public representatives that provide permanent or long-term affordability and shared equity homeownership opportunities.~~
(Source: P.A. 104-370, eff. 8-15-25.)

Section 999. Effective date. This Act takes effect upon becoming law.