Bill No. 9477-16
As amended in committee, March 16, 2016

No. 04-16-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, to amend and supplement Article I of Chapter 475 of the Code of Allegheny County entitled "Hotel Room Rental Tax," to clarify the imposition, collection, and remittance of Hotel Tax on short-term rentals of accommodations.

Whereas, the Treasurer of Allegheny County is authorized to collect a seven (7) per cent Hotel Room Rental Tax pursuant to 53 Pa. C.S. § 8721 and 16 P.S. § 3000.306; and

Whereas, private homes that are made available by operators as short-term rental accommodations are considered Hotels subject to the Hotel Room Rental Tax; and;

Whereas, the Treasurer of Allegheny County seeks to require booking agents that facilitate reservations or collect payment for hotel accommodations on behalf of or for an operator to collect and remit Hotel Room Rental Tax to the County.

The Council of the County of Allegheny hereby enacts as follows:

Section 1. Article I of Chapter 475 of the Code of Allegheny County is hereby amended as follows:

CHAPTER 475. TAXATION

Article 1. Hotel Room Rental Tax

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§ 475-2. Definitions.
The following words and phrases when used in this article shall have, unless the context clearly indicates otherwise, the meanings ascribed to them in this section:

* * *

BOOKING AGENT

Any company, person, or other entity that:

A. Is in the business of facilitating, making or processing hotel reservations on behalf of prospective patrons and/or hotels or operators; or

B. Is paid a fee or otherwise derives any type of compensation through facilitating, making or booking hotel reservations by one or more patrons, regardless of whether such fee or compensation is paid by the hotel, operator, patron, or other entity or collects payments for hotel reservations or accommodations on behalf of or for a patron, hotel or operator, and regardless of whether a fee or other compensation is paid for making the reservations for accommodations. Merely publishing an advertisement for accommodations does not make the publisher a booking agent.

C. The term "booking agent" shall include, but not be limited to:

1. Online travel booking sites which are involved in the process of listing vacant lodgings to patrons, booking reservations on behalf of patrons, operators, or any other entity, and handling any aspect of the resulting financial transaction; and/or

2. A hosting or other online site that provides a means through which an operator, hotel, or agent for an operator or hotel may accept reservations for hotel occupancy.

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§ 475-4. Collection of tax.

A. The operator of every hotel within the County shall collect the tax imposed under this article from the patron or patrons of every room or rooms rented. The operator shall then pay over the tax collected to the County in accordance with rules and regulations concerning the collection of the tax established by the County's Treasurer.

B. A booking agent may, or if required by applicable state law, shall collect and remit the tax on behalf of an operator. An operator shall not be responsible for collecting and remitting the Hotel Room Rental Tax on any transaction for which it has received confirmation that the booking agent has collected and remitted the tax.

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§ 475-6. Creation of fund and distribution of tax revenues.

The County Treasurer shall collect the tax imposed under this article from the operator or booking agent and shall deposit the revenues received from the tax in a special fund. The Board of Commissioners of the County shall authorize distributions the tax revenues from the special fund in accordance with § 4(b.1), Act 182 of 1990, 16 P.S. § 4570.2.

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§ 475-8. Regulations.

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G. Regulation 107: Records.

1. If is presumed that all rooms are subject to the tax until the contrary is established by accurate records from the operator. The burden of proving that the rent or occupancy received is not taxable is upon the operator and the operator must demonstrate same through accurate records. In any case where a hotel operator fails to maintain adequate records as required under this regulation, any room for which there is not adequate records shall be deemed to have been occupied for the entire period for which the supporting records are lacking.
2. It shall be the duty of every operator liable for the collection and payment to the County of any tax imposed by this article to keep and preserve for a period of three years, all records as may be necessary to determine the amount of tax which the operator was liable to collect and pay to the County. Said records shall be maintained at the place of business where the subject rooms were rented. Said records shall include, but not be limited to, folios; lease agreements; general ledgers; night auditor and maid reports; traffic summaries; lease agreements; general ledgers; night auditor and maid reports; traffic summaries; source of business reports; and any other documents which support room revenues and exemptions. Said records shall be filed in a manner that allows ready access by an authorized agent of the County, who shall have the right to inspect same at all times.
3. In all instances where a hotel operator claims an exemption pursuant to Subsection A (Regulation 101) or the definition of "permanent resident" in Subsection of these regulations, said operator shall maintain among his records folios; lease agreement; vouchers and specifically in the case of Subsection A (Regulation 101), relating to exemptions, copies of I.D. cards or other records indicating the exempt occupant's job number, employer, place of employment or other identifying information. The aforementioned records shall be filed in a manner that allows ready access by an authorized agent of the County.
4. Upon the County Treasurer's request, any booking agent shall provide a list of all operators in the County that have listed hotels with it, including but not limited to the hotel's address, phone number, email address, the operator's contact information, and any other requested information.
5. Any booking agent that lists one or more hotels in the County and that does not collect the tax on behalf of all the operators of such hotels shall provide the County quarterly, within 30 days of the end of the calendar quarter, a list of all hotels in the County that it listed the prior calendar year but for which it did not collect and remit, along with each operator's address, phone number, email address, and any other requested information.
6. Any booking agent that lists one or more hotels in the County (i) shall, at the time any operator first lists a hotel in the County with it, notify the operator of the operator's tax obligations to the County; and (ii) shall annually provide all operators of one or more hotels

in the County with a reminder of their tax obligations to the County. In both cases, the booking agent shall use language provided or approved by the County Treasurer.

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K. Regulation 111: Regulations applicable to booking agents. Any regulation which applies to an operator shall apply to a booking agent, provided that the booking agent collects the tax.

Section 2. ***Effective Date.***

This Ordinance shall enter into effect on the date of its enactment.

Section 3. ***Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.***

Section 4. ***Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.***

Enacted in Council, this 22nd *day of* March*, 2016,*

Council Agenda No. 2477-16

John DeFazio
President of Council

Attest:

Jared Barker
Chief Clerk of Council

Chief Executive Office March 24*, 2016*

Approved:

Rich Fitzgerald
Chief Executive

Attest:

Sonya Dietz
Executive Secretary