



BILL NO. 210081

Introduced February 4, 2021

Councilmember Squilla

**Referred to the
Committee on Rules**

AN ORDINANCE

Amending Chapter 9-3900 of The Philadelphia Code, entitled “Property Licenses and Owner Accountability;” Section A-906, entitled “Property License Fees;” Chapter 14-604, entitled “Accessory Uses and Structures;” and Chapter 19-2400, entitled “Hotel Room Rental Tax,” to add and revise provisions related to the use of properties for limited lodging and hotel purposes and to the collection of hotel rental taxes in connection therewith; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATIONS OF BUSINESSES, TRADES, AND PROFESSIONS

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CHAPTER 9-3900. PROPERTY LICENSES AND OWNER ACCOUNTABILITY.

* * *

§ 9-3902. Rental Licenses.

(1) Required.

(a) The owner of any dwelling unit, multiple family dwelling, rooming house, dormitory, hotel, one-family dwelling, two-family dwelling, or rooming unit let for occupancy must obtain a rental license. No person shall collect rent with respect to any property that is required to be licensed pursuant to this Section unless a valid rental license has been issued for the property. [For purposes of this subsection, the operator of limited lodging, not the

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booking agent (both terms as used in § 14-604(13)), shall be treated as the person collecting rent, whether or not the booking agent collects rent on behalf of the operator.]

(b) Exceptions.

* * *

(iv) A rental license shall not be required for *use as limited lodging* [activity], as defined at § 14-604(13) of this Code, so long as the activity is [compliant with the Zoning Code and the primary resident is the owner of the dwelling unit.] *licensed pursuant to Section 9-3909 of this Chapter (“Limited Lodging Operator License”)*.

* * *

§ 9-3909. *Limited Lodging Operator License.*

(1) *No person shall operate a residential dwelling as limited lodging, as defined in subsection 14-604(13) of this Code (“Limited Lodging”), without a Limited Lodging Operator License. Operation in violation of the standards for use as limited lodging as set forth in subsection 14-604(13) shall constitute a violation of this Chapter.*

(2) *Only a primary resident of a dwelling unit, as further defined in subsection 14-604(13) of this Code, may operate property as limited lodging and obtain such a license.*

(3) *The provisions of subsection 9-3901(2) (“Application and Issuance”) shall not apply to licenses issued under this Section 9-3909.*

(4) *An application for such a license shall be submitted on a form as established by the Department. To obtain a license, the applicant must:*

(a) *Have a valid commercial activity license;*

(b) *Have no outstanding violation notices issued under Title 4 of this Code associated with the property for which the application is made, unless the owner has filed an appeal of the violation which is pending, and the owner has notified the Department of such appeal in a manner prescribed by the Department;*

(c) *Provide confirmation in a form established by the Department of authority to operate the property for such purpose, including satisfaction of zoning requirements;*

(d) *If an owner of the property is not a natural person or a publicly traded company, the application shall identify, in addition to the owner of the property, the name*

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and preferred mailing address of each natural person who has an equity interest in such owner or owners of the property that exceeds one or more of the following, regardless of whether the natural person has a direct equity interest or such natural person's equity interest is held through one or more tiers of a corporate structure, such as parent-subsidary structure: (a) forty-nine percent (49%) of the value of the property or (b) forty-nine percent (49%) of the value of the owner of the property. If no natural person has such an interest, the application shall identify the name and preferred mailing address of the two natural persons who have the largest equity interest in the property; and

(e) Satisfy such lead paint safety requirements of Chapter 6-800 ("Lead Paint Certification and Disclosure") as may be determined by the Department of Public Health by regulation.

(5) No dwelling unit may be operated as limited lodging except through a booking agent licensed under Section 9-3910 ("Limited Lodging and Hotels Booking Agent License"). Prior to listing a dwelling as a limited lodging unit with a booking agent, the operator shall provide proof to the booking agent that a valid Limited Lodging Operator License has been issued and is active for the premises.

(6) An operator shall conspicuously identify the operator's license number in all advertising and communications that indicate that a dwelling is available for use as limited lodging.

§ 9-3910. Limited Lodging and Hotels Booking Agent Licenses.

(1) *Booking Agent.* Means a person or entity that facilitates reservations or collects payment for accommodations on behalf of a person offering to the public a residential dwelling as limited lodging or as a hotel or similar short-term rental. A Booking Agent does not include a person or entity that facilitates reservations or collects payment for accommodations if the accommodations are offered by a person operating under the same trademark, trade name, or service mark used by the person or entity facilitating reservations or collecting payment.

(2) No person or entity shall, in exchange for compensation, act as a booking agent with respect to limited lodging, hotel or similar short-term rental use unless the person or entity has a valid Limited Lodging and Hotels Booking Agent License.

(3) No person shall, in exchange for compensation, act as a booking agent in connection with any particular property without first obtaining: (a) evidence that either: (.1) a valid Limited Lodging Operator License; or (.2) a rental license pursuant to Section 9-3902 ("Rental Licenses"), identified as a hotel rental license upon establishment of rental license categories by the Department by regulation, is in place in connection with the property; and

(b) written consent from the holder of the license for the disclosure to the City of the information required under this Section.

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(4) A booking agent that has been notified by the City that the required Limited Lodging Operator's license or rental license required to operate a particular property is not in place, or the property is ineligible for use as intended in the booking for some other reason, shall promptly remove the listing and confirm that it has done so.

(5) As a condition of such license, a booking agent shall provide to the Department, in such format and with such frequency as established by the Department by regulation, the following information:

(a) The name and license type and number of each operator for whom a transaction has been consummated with respect to a property located in Philadelphia.

(b) The street address associated with each such booking, including the unit number, if applicable.

(c) The length of stay of and price paid for each such booking.

[§ 9-3909. Penalty.] § 9-3911. Penalties

(1) Knowingly providing false or misleading information regarding those natural persons having an ownership or other equity interest in a property or owner, or regarding contact information for managing agents under this Chapter 9-3900, shall be a Class III offense, and the negligent provision of such false or misleading information shall be a Class II offense. Each day of violation shall constitute a separate offense.

(2) Failure to comply with any provision of Sections 9-3909 and 9-3910 shall be a Class II offense per day of violation.

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SECTION 2. Subcode A of Title 4 of The Philadelphia Code is amended as follows:

SUBCODE "A" (THE PHILADELPHIA ADMINISTRATIVE CODE)

* * *

CHAPTER 9 FEES

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SECTION A-906 PROPERTY LICENSE FEES

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A-906.5 Limited Lodging Operator License: The annual license fee for a Limited Lodging Operator License issued under § 9-3909 is \$150.

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A-906.6 Limited Lodging and Hotels Booking Agent License: The initial license fee for a Limited Lodging and Hotels Booking Agent License issued under § 9-3910 is \$7,000. The annual license renewal fee is \$5,000.

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SECTION 3. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING

* * *

CHAPTER 14-600. USE REGULATIONS.

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§ 14-604. Accessory Uses and Structures.

* * *

(13) Limited Lodging

[(a)General.

Limited lodging is the accessory use of a dwelling unit for temporary rental for occupancy for dwelling, sleeping or lodging. The standards of this section are intended to ensure that limited lodging will not be a detriment to the character and livability of the surrounding neighborhood.]

[(b) Categories of Limited Lodging.

Two categories of limited lodging are recognized, and both shall comply with the standards provided in § 14-604(13)(c) (Standards). Limited lodging shall only be permitted when arranged through a booking agent as defined in § 19-2401.

(.1) Limited Lodging, Short Term.

The accommodation of visitors conducted in a dwelling unit, the primary use of which is for household living, and where the total accommodations of visitors provided is for fewer than ninety-one (91) days per year but where the provision of lodging to any particular visitor is for no more than thirty (30) consecutive days. This limited use does not require a use permit.

(.2) Limited Lodging Home.]

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(a) *General*

Limited Lodging is [The] the accommodation of visitors conducted by the primary resident of the dwelling unit, the main use of which is for household living, and [where the total accommodations of visitors provided is for greater than ninety (90) days per year but] where the provision of lodging to any particular visitor is for no more than thirty (30) consecutive days. [In no instance may limited lodging be provided for more than one hundred eighty (180) days per year.] For purposes of this subsection, the primary resident shall mean either (i) a natural person who is the owner of the dwelling [unit that] unit, and is entitled to a homestead exclusion pursuant to Code § 19-1301.1 for such dwelling unit; or (ii) a renter (a) who is a natural person and lives in the dwelling unit as the renter's primary domicile for more than half of the year and (b) who is authorized in writing by the owner to provide limited lodging. [A Limited Lodging Home is required to obtain a use permit. See Code § 14-104(2).] Use as Limited Lodging is subject to the applicable licensing and other requirements set forth in Section 3909 ("Limited Lodging Operator License").

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SECTION 4. Title 19 of The Philadelphia Code is amended to read as follows:

TITLE 19. FINANCE, TAXES, AND COLLECTIONS

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CHAPTER 19-2400. HOTEL ROOM RENTAL TAX

§ 19-2401. Definitions.

In this Chapter the following words and phrases shall have the meanings given to them in this Section unless the context clearly requires otherwise:

* * *

(1.1) **Booking Agent.** Any person or entity that facilitates reservations or collects payment for hotel accommodations, *including limited lodging as defined in subsection 14-604(13) of the Code*, on behalf of or for an operator. Merely publishing an advertisement for accommodations does not make the publisher a booking agent.

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(7) Operator. Any individual, partnership, non-profit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of, or otherwise possess the right to rent or lease overnight accommodations in any hotel to the public for [consideration.] *consideration, including the operator of limited lodging, as defined in subsection 14-604(13) of the Code.*

* * *

§ 19-2402. Imposition and Rate of Hotel Room Rental Tax.

(1) There is hereby imposed an excise tax on the consideration received by each operator of a hotel within the City from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the City pursuant to Sections 19-2403 and 19-2405 and shall be known as the Hotel Room Rental Tax. However, a booking agent, acting for an operator, may collect and remit the tax, and 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, *and further provided that in the case of a booking agent acting for an operator of limited lodging, as defined in subsection 14-604(13) of the Code, the booking agent shall collect and remit the tax.*

* * *

§ 19-2402.1. Imposition and Rate of Tourism and Marketing Tax.

(1) There is hereby imposed, in addition to the tax imposed by the preceding Section 19-2402 and notwithstanding the maximum rate of tax set forth in said Section, an excise tax of one percent (1%) on the consideration received by each operator of a hotel within the City from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the City pursuant to Sections 19-2403 and 19-2405 and shall be known as the Tourism and Marketing Tax. However, a booking agent, acting for an operator, may collect and remit the tax, and an operator shall not be responsible for collecting and remitting the Tourism and Marketing Tax on any transaction for which it has received confirmation that the booking agent has collected and remitted the tax, *and further provided that in the case of a booking agent acting for an operator of limited lodging, as defined in subsection 14-604(13) of the Code, the booking agent shall collect and remit the tax.*

§ 19-2402.2. Imposition and Rate of Hospitality Promotion Tax.

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(3) The taxes imposed pursuant to this Section shall be collected by the operator from the patron of the room and paid over to the City pursuant to Sections 19- 2403 and 19-2405 and shall collectively be known as the Philadelphia Hospitality Promotion Tax. However, a booking

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agent, acting for an operator, may collect and remit the tax, and an operator shall not be responsible for collecting and remitting the Philadelphia Hospitality Promotion Tax on any transaction for which it has received confirmation that the booking agent has collected and remitted the tax, *and further provided that in the case of a booking agent acting for an operator of a dwelling unit used for limited lodging, as defined in subsection 14-604(13) of the Code, the booking agent shall collect and remit the tax.*

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SECTION 5. Sections 1 and 2 of this Ordinance are effective April 1, 2022. Sections 3 and 4 of this Ordinance are effective immediately.

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