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Office of the Lancaster County Treasurer

Memo

To: House Tourism Committee

From: Amber Martin, MPA

Date: April 9, 2017

Re: HB1810, Online Home Sharing Registration Bill

Good morning:

My name is Amber Martin, and I serve as the Lancaster County Treasurer. Also, I am the chair of the Hotel Tax Committee for the State Association of County Treasurers. Special thank you to the House Tourism Committee for allowing me the opportunity to share my thoughts concerning HB1810.

I speak to you this morning to offer my general support of specific provisions outlined in HB1810, Online Home Sharing Registration Bill.

Section 1403, Record Sharing (A):

HB1810 helps County Treasurers to identify and register short-term lodging providers operating within their respective counties. From a tax and fairness standpoint, many short-term-lodging providers, commonly referred to as "hosts" escape county registration requirements and having to pay applicable county hotel taxes; simply because the online hosting platforms shield their specific locations. In Lancaster County, a consortium of different agencies has spent months, working together to research various online home-sharing platforms to look for clues to try and identify properties so we may contact the "hosts" to educate them concerning county ordinances.

During February alone, my office identified 98 "hosts" as operating short-term-lodging facilities without correctly registering with the county and remitting applicable hotel taxes. The time and effort each of these tax-payer funded departments put into identifying and locating illegally operating lodging facilities is quite perplexing. Tax clerks have turned into detectives; just because we believe there should be a level and fair playing field and allowing one subset of the

same industry to bypass registration, taxation, and zoning requirements is unacceptable. In Lancaster County, our excise tax funds travel and tourism. To add insult to injury, a percentage of revenue that would otherwise go to funding travel and tourism is being allocated to administrative expenses to compensate the time it takes team members in my office to track down illegally operating short-term-lodging providers that are not paying excise or bed taxes.

If the legislature fails to intervene, unfair competition for traditional lodging facilities and for community homeowners/residents will continue. Conventional lodging providers are not afforded the luxury to hide in plain sight and bypass having to pay hotel taxes and adhere to applicable zoning/insurance/business laws.

Section 1403, County Records (B):

HB1810 helps County Treasurers enhance our ability to information-share with our township and borough officials. Lancaster County respects that our constituents elected local township and borough supervisors/commissioners to create ordinances and maintain laws which their political subdivision residents wish to retain and see enforced. It is critical that legislation is adopted that allows County Treasurers to information-share with our township and borough colleagues. The Lancaster County Treasurer's Office receives countless calls from homeowners, community associations, municipal officials, zoning officers, and other lodging providers reporting suspected illegal lodging activity in their respective areas. Complaints stem from allegations of illicit drug activity, possible sex-trafficking, over-occupancy concerns, parties, various parking violations, and overall a reduced standard of living. HB1810 allows County Treasurers to become a resource to their respective townships/boroughs concerning short-term-lodging providers in their political subdivisions. Given the potentially overwhelming community-level impacts online lodging rentals and their transient nature may have, extra emphasis should be placed on enhancing and not reducing the flow of information from state, county, and local tax departments to local regulatory and law enforcement agencies.

Currently, Operators of Online Hosting Platforms provide a way for short-term-lodging providers, commonly referred to as "hosts," to operate illegally, if such facilities violate zoning ordinances, occupancy standards, building and fire codes, and various other housing laws. For me, this is not just a tax issue; this is a quality of life issue for our residents. Once again, I believe HB1810 assists County Treasurers in our quests to strengthen, not weaken, the information exchange process. Along the same transparency lines, I humbly request that more clarity is provided in Section 1404: Open Records (B) Addresses.

Some Counties throughout the Commonwealth may believe legislation is not needed because those counties have chosen to enter into Voluntary Disclosure Agreements with Airbnb. I do wish to commend Airbnb for their efforts to negotiate with counties throughout the Commonwealth. I do feel Airbnb is making an honest attempt to work with county governments. Unfortunately, I do not think it is prudent or in the best interest of Lancaster County residents to enter into a Voluntary Disclosure Agreement, proposed by Airbnb. The Voluntary Disclosure Agreement language, drafted by Airbnb, raises many concerns for me.

First, I feel the agreements are perceived as creating multiple layers of secrecy. The agreements establish a shield by protecting lodging operators from having to properly register with the county treasurer's office and adhere to reporting and remitting laws traditional lodging operators are mandated to follow. For many counties, Airbnb's previous unwillingness to provide host information to county treasurers has created tax collection problems by making tax collection efforts unreasonably tricky and extremely costly to collect. Such provisions eliminate clear responsibilities of lodging operators to collect and pay lodging taxes on all bookings, register with taxing agencies, and filing/paying taxes.

Second, the Voluntary Disclosure Agreements provide amnesty for Airbnb and their lodging operators. Current contractual language asks taxing districts to forgive any potential back owed taxes. It is difficult to comprehend why a taxing district would agree to provide amnesty to hosts merely because they use an online home-sharing platform for their bookings. If taxing districts extend such tax forgiveness exceptions to one form of short-term-lodging booking platforms, how is that fair to our traditional lodging providers who do not receive such tax courtesies? In short, amnesty granted to everyone substantially removes the incentive for non-compliant lodging providers to begin complying with tax laws.

Third, the auditing provisions essentially provide the county controller with a restricted time-frame to audit, only allowing the county controller to audit documents Airbnb has already filed with the county treasurer, not necessarily Airbnb's books, and records --- effectively blocking the county controller from verifying the accuracy of actual returns and payments. Tax agencies are essentially agreeing to conduct audits via secondary information, constructed by Airbnb. Tax returns, supporting documents, and anonymous "host" data which may or may not balance with the actual transactions. Underreporting and underpaying may occur and the taxing district would be none the wiser. Such an "honor system" is not currently extended to our traditional lodging providers.

Again, this is not a "beat up on Airbnb" testimonial. I, commend Airbnb for reaching out and agreeing to a dialogue exchange. Unfortunately, for me, I did not feel entering into a Voluntary Disclosure Agreement, as currently drafted and proposed by Airbnb, was the right move for the County of Lancaster.

With that said, technology will continue to evolve, and county governments need to look for creative ways to embrace technological advances and become friendlier to our new business segments. There is no doubt that the concept of home-sharing via online booking platforms have a place in our overall travel and tourism realms to enhance economic growth. In Lancaster County, we are currently building a cloud-based program which will allow short-term-lodging providers to register online with our office, fill out their monthly returns, submit tax payments, and more efficiently interact with the Treasurer's Office. My office understands that government regulations and tax burdens can create unnecessary hurdles for business owners and we wish to provide more efficient ways for lodging providers to comply with our ordinances. In our quest for "leveling the playing field" and "tax fairness," governments also have to do our part to make compliance as painless as possible.

In conclusion, HB1810 provides the registration and information sharing provisions needed for County Treasurers to fairly administer their short-term-lodging ordinances; while being responsible partners and sources of information to our township and municipal partners. The government's role is to embrace capitalism and free market competition. The online home-sharing platforms are successful because the free market has embraced the concept. In no way do I support terminating online hosting platforms. I am just asking that online home-sharing platforms be required to work with the state and county governments (the same way traditional lodging providers are mandated) and provide an avenue for us to be able to efficiently and fairly enforce our ordinances. County and municipal property taxpayers depend on county and municipal governments to implement zoning and other policies to keep residential neighborhoods places of relaxation and private repose so residents may live their lives and raise their families.