

**NetChoice** *Promoting Convenience, Choice, and Commerce on The Net*

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March 20, 2017

Rep. Joe Jett, Chair  
Rep. Joe Farrer, Vice Chair  
House Committee on Revenue and Taxation  
Arkansas General Assembly  
Little Rock, Arkansas

RE: **Opposition to SB 663 – Tax Liability for Accommodations Intermediaries**

Dear Chair Jett, Vice Chair Farrer, and members of the committee:

We oppose SB 663 since it would impose unworkable *and retroactive* tax liabilities on travel agents, property managers, newspapers, and universities – even if all they do is list rooms or homes available for rent in Arkansas.

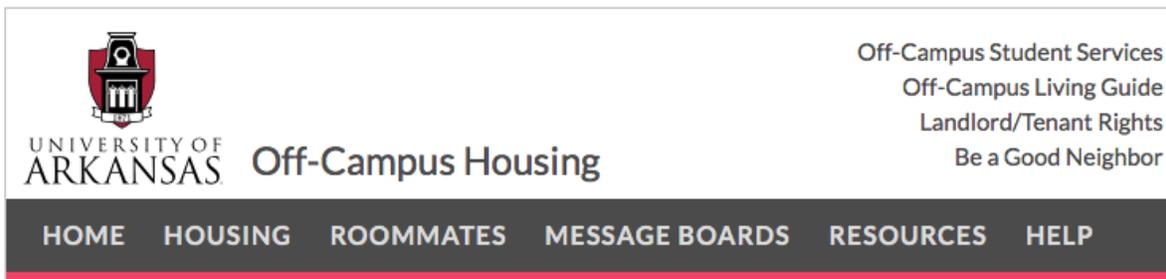
Cities and states favor hotel and tourism taxes since they fall mostly on visitors – not on resident voters. But under SB 663, the new tax liability could only be imposed on those who have a physical presence in Arkansas. The tax could not be enforced against out-of-state travel agents, tour operators, or websites.

SB 663 does not deserve this committee’s support, since it would impose pain on Arkansas property owners and others without generating a significant gain in revenue, as explained in detail below.

***SB 663 imposes tax liability on Arkansas travel agents, property managers, newspapers, and universities.***

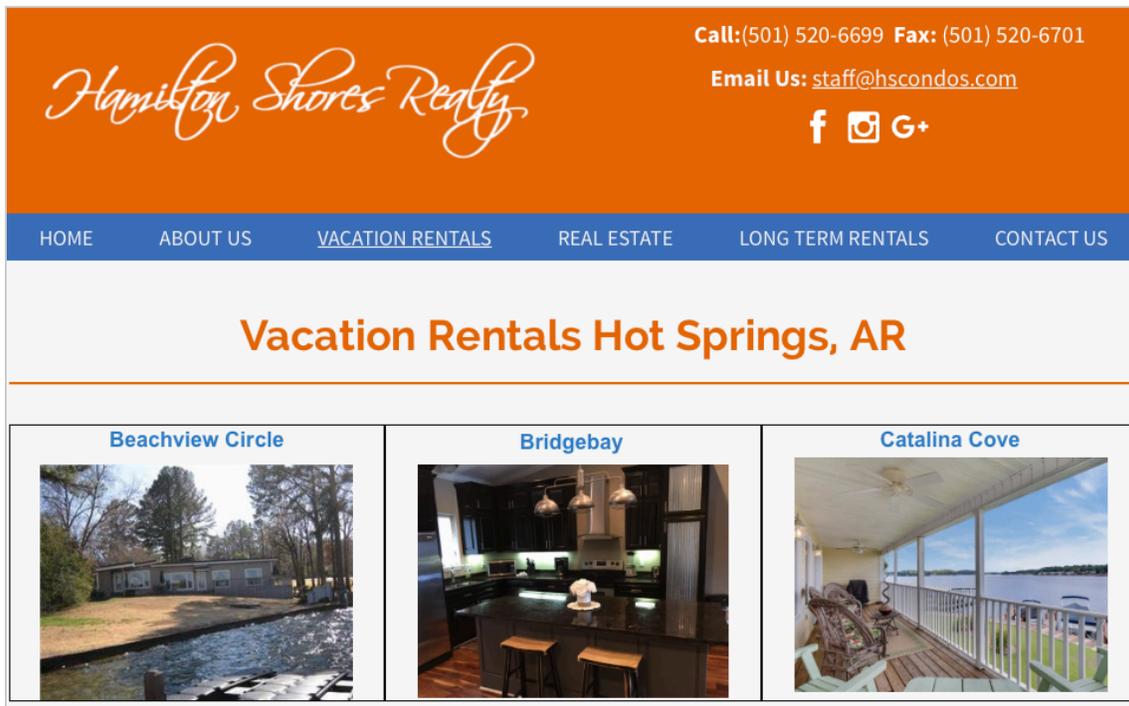
SB 663 gives an implausible new definition to a common-sense term that has long been part of Arkansas law. The state’s gross receipts and tourism taxes have always been levied on “the service of furnishing” accommodations<sup>1</sup> – those who operate a lodging establishment or rental property. But SB 663 defines “furnishing” to include “coordinating, making available for, or otherwise arranging for the sale or use of a room, suite, condominium, townhouse, rental house, or other accommodation.”

This new definition would impose tax liability on the University of Arkansas, since the school hosts a website that lists off-campus housing for rent by students:



<sup>1</sup> Arkansas Code Title 26. Taxation § 26-63-402. Tourism tax, at <http://codes.findlaw.com/ar/title-26-taxation/ar-code-sect-26-63-402.html#sthash.2nPLerXr.dpuf>

And the new definition would capture property managers like Hamilton Shores Realty in Hot Springs, since they list vacation rentals for Arkansas homeowners there:



By imposing tax liabilities on intermediaries that do not collect payments, SB 663 will almost surely reduce the opportunities for Arkansas home owners to earn extra income on their properties.

***Arkansas home owners and local businesses benefit from short-term rentals.***

Short-term rental services provide needed income to many Arkansas homeowners. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income hosts earn through short-term rental is used to cover the costs of maintaining their households.

The presence of short-term rental services also brings new money into areas where there are few hotels to bring visitors in touch with local businesses. Consider, for example, families coming from across the country for events at all Arkansas State campuses and at smaller private colleges like Henderson State University.

Short-term rentals via internet platforms are enabling Arkansans to earn income by sharing their homes in these college communities. And short-term rental guests bring income into the district as they visit restaurants, grocery stores, and other businesses.

***Big hotel chains benefit most from legislation like SB 663.***

Big hotel chains are backing SB 663 because they see short-term rentals as a threat to their business model.

Today the hotel industry enjoys record-setting occupancy levels and room rates. However, the emergence of short-term rentals is seen by some in the hotel industry as forcing hotels to hold their rates down. For instance,

LaSalle Hotel Properties' CEO told investors that *a law curtailing short-term rentals would allow hotels to boost their prices by eliminating competition.*<sup>2</sup>

Lower hotel room rates mean that visitors to Arkansas have more money to spend with Arkansas businesses. Likewise, when your constituents travel, short-term rentals offer more reasonably priced accommodations.

***This committee should not approve SB 663, since there are far better ways to clarify tax liability.***

Rather than advance SB 663, we encourage you to seek reasonable regulations that have proven beneficial in other states.

One approach to home-sharing is creating a state-wide registration process for Arkansas home owners. Registration would also ensure the home-sharing boon to homeowners and visitors also benefits non-participating residents through revenue collection that is funneled back into the local economy.

Another helpful clarification is to maintain the distinction between travel service providers and lodging operators, clarifying when an occupancy tax applies. We suggest this language from Missouri law:

*“Any tax imposed or collected by any municipality, any county, or any local taxing entity on or related to any transient accommodations, whether imposed as a hotel tax, occupancy tax, or otherwise, shall apply solely to amounts actually received by the operator of a hotel, motel, tavern, inn, tourist cabin, tourist camp, or other place in which rooms are furnished to the public.*

*Under no circumstances shall a travel agent or intermediary be deemed an operator of a hotel, motel, tavern, inn, tourist cabin, tourist camp, or other place in which rooms are furnished to the public unless such travel agent or intermediary actually operates such a facility. ...*

*This section is intended to clarify that taxes imposed as a hotel tax, occupancy tax, or otherwise, shall apply solely to amounts received by operators, as enacted in the statutes authorizing such taxes.”<sup>3</sup>*

We welcome the opportunity to work with your committee on reasonable regulations that allow all to prosper.

Sincerely,



Steve DelBianco  
Executive Director, NetChoice

*NetChoice is a trade association of e-Commerce and online businesses. [www.netchoice.org](http://www.netchoice.org)*

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<sup>2</sup> Gaby Del Valle, *Hotel CEO: New Airbnb Regulations Should Allow A 'Big Boost' In Hotel Room Rates*, Gothamist (Oct. 27, 2016) (Passage of a law limiting short-term rental services “should be a big boost in the arm for the business, certainly in terms of the pricing.”)

<sup>3</sup> Missouri HB 1442 (2010), signed into law July 2010 (emphasis added).