



City of Albuquerque

Albuquerque/Bernalillo
County
Government Center
One Civic Plaza
Albuquerque, NM 87102

Legislation Details (With Text)

File #: O-21-75
Type: Ordinance **Status:** Enacted
File created: 8/16/2021 **In control:** City Council
Final action: 9/8/2021
Enactment date: 9/27/2021 **Enactment #:** O-2021-022
Title: Amending Section(S) 4-4-9 And 4-4-14 Of The City Of Albuquerque Lodgers' Tax Ordinance (Gibson)
Sponsors:
Indexes:
Code sections:
Attachments: 1. O-75, 2. O-75Enacted

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|------------------------------------|--------|
| 9/29/2021 | 2 | City Clerk | Published | |
| 9/21/2021 | 2 | Mayor | Signed by the Mayor | |
| 9/14/2021 | 1 | City Council | Sent to Mayor for Signature | |
| 9/8/2021 | 1 | City Council | Passed | Pass |
| 8/16/2021 | 1 | President | To be heard at the Council Meeting | |
| 8/16/2021 | 1 | City Council | Introduced | |

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. O-21-75 ENACTMENT NO. _____

SPONSORED BY: Diane G. Gibson

ORDINANCE

Amending Section(S) 4-4-9 And 4-4-14 Of The City Of Albuquerque Lodgers' Tax Ordinance
(Gibson)

AMENDING SECTION(S) 4-4-9 and 4-4-14 OF THE CITY OF ALBUQUERQUE LODGERS' TAX
ORDINANCE.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
ALBUQUERQUE:

SECTION 1. Section 4-4-9, COLLECTION OF THE TAXES; REPORTING CHANGE IN

OWNERSHIP, is amended as follows:

(A) Every vendor providing lodgings within this city shall collect the occupancy tax thereon on behalf of the city and shall act as a trustee therefor.

(B) The occupancy tax shall be collected from vendees in accordance with this section and shall be charged separately from the rent fixed by the vendor for the lodgings.

(C) On and after June 1, 1969, each vendor shall be liable to the city for the tax provided herein on the rent paid for lodging.

(D) (1) Each vendor shall make a report by the 25th day of each month on forms provided by the Mayor of the receipts for lodging paid to him in the preceding calendar month and shall remit therewith payment of the total amount of the occupancy tax due to the city. The report shall include sufficient information to enable the city to audit the report and shall be verified on oath by the vendor. Each vendor shall make the required report for each reporting period whether or not any tax is due. If no gross taxable rent has been collected for that reporting period, such information shall be reported. Occupancy taxes not paid and posted to the city's Lodgers Subsidiary Ledger Vendors' Account by the 25th of the month as provided herein shall be considered delinquent.

(2) If the 25th day of the month falls on a weekend or holiday, the return shall be due on the next business day.

(E) The Mayor shall select for annual random audits one or more vendors to verify the amount of gross rent subject to the occupancy tax and to ensure that the full amount of occupancy tax on that rent is collected. Copies of audits completed shall be filed with the State of New Mexico local government division of the Department of Finance and Administration.

(F) Failure to notify the Mayor within 30 working days of a change of ownership on a taxable premises shall subject vendor to a \$500 penalty.

(G) A nonrefundable hearing fee of \$50.00 shall accompany each appeal to the City Hearing Officer filed pursuant to §§ 4-4-6 or 4-4-9 ROA 1994.

SECTION 2. Section 4-4-14, MARKETPLACE PROVIDER RESPONSIBILITIES, is amended as follows:

(A) Marketplace providers shall be responsible for collecting all applicable occupancy taxes and remitting the same to the City. The marketplace provider shall be considered an agent of the vendor for purposes of occupancy tax collections and remittance responsibilities as set forth in this ordinance;

(B) Safe Harbor. A marketplace provider operating exclusively on the internet, who operates in compliance with subsection (A) above, shall be presumed to be in compliance with this ordinance, except that the marketplace provider remains responsible for compliance with the administrative penalty provision in § 4-4-99 of this ordinance.

SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 4. COMPILATION. This ordinance shall be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

X:\CL\SHARE\CL-Staff_Legislative Staff\Legislation\24 Council\O-75final.docx