

## Summary of Legislation and Recommendations for Council Consideration February 11, 2021

### Short-Term Rentals

#### **SB1379 Relating to Short-Term Rentals, Enforcement (Sen. Mesnard)**

Considered the Industry Bill. Allows a City or Town to adopt and enforce ordinances, related to public health and safety, traffic control and nuisance related to noise, protection of welfare, nuisance in same manner as other homes. Restricts the maximum number of adult occupants at any one time to no more than 2/bedroom up to 4 bedrooms plus 2 per 1,000 sf over 3,000 sf of home. Allows local civil penalties of \$1,000 every 30 days for not providing contact information. Requires liability insurance. First sponsor: Sen. Mesnard

*Recommend Partial Oppose, Doesn't go far enough*

#### **HB 2285 Online Home Sharing: Repeal**

Repeals statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Repeals the online lodging marketplace transaction privilege tax classification, and the requirement for online lodging marketplaces to register with the Department of Revenue for payment of transaction privilege taxes on online lodging transactions. Repeals the requirement for online lodging operators to have a current transaction privilege tax license and related civil penalties for noncompliance. Repeals the Joint Legislative Study Committee on Transient Lodging.

ARS Titles Affected: [5](#) [15](#) [42](#)

First sponsor: Rep. Lieberman (D - Dist 28)

Others: Rep. Bolick (R - Dist 20) , Rep. Butler (D - Dist 28) , Sen. Marsh (D - Dist 28) , Rep. Teran (D - Dist 30)

*Recommend Support (Full Repeal of 2016 SB1350)*

#### **HB 2481 Short-Term Rentals; Enforcement; Penalties**

Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include requiring the owner of a vacation rental or short-term rental to license or register with the county or municipality, and restricting the occupancy of a vacation rental or short-term rental to the lesser of the occupancy limit of the county or municipality or 2 adults per bedroom plus 2 additional adults. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use. Counties and municipalities are authorized to impose a civil penalty for each day a property is in violation of this

advertisement prohibition. An online lodging operator that falsifies information to an online lodging marketplace is guilty of a petty offense. A county or municipality cannot prohibit the operation of a vacation rental or short-term rental based solely on its status as a vacation rental or short-term rental if the owner of the vacation rental or short-term rental, as of May 1, 2021, has a valid transaction privilege tax license, and as of June 2, 2021, has provided the owner's or the owner's designee's contact information to the county or municipality in which the vacation rental or short-term rental is located, if required by ordinance.

ARS Titles Affected: [9](#) [11](#) [42](#)

First sponsor: Rep. Kavanagh (R - Dist 23)

Others: Sen. Alston (D - Dist 24) , Sen. Barto (R - Dist 15) , Rep. Butler (D - Dist 28) , Sen. Engel (D - Dist 10) , Rep. Jermaine (D - Dist 18) , Rep. Kaiser (R - Dist 15) , Rep. Lieberman (D - Dist 28) , Rep. Longdon (D - Dist 24) , Sen. Marsh (D - Dist 28) , Rep. Shah (D - Dist 24)

*Recommend Support (Last Year's Sen. Kate Brophy McGee's SB 1554 that passed Senate 23-5)*

#### **HB 2482 Regulation; Short-Term Rentals**

Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include: requiring contact information for the owner of the rental to be posted on the front door or in another location on the property that is visible and accessible to the public; restricting the maximum number of adult occupants allowed on the property at one time to the lesser of the occupancy limit established by the county or municipality or no more than 2 adults per bedroom, up to 4 bedrooms, plus 2 additional adults per 1,000 square feet of livable space in excess of 3,000 square feet of livable space; requiring the installation of safety and monitoring equipment that monitors and detects noise and notifies the owner if noise is unreasonable or in violation of a noise ordinance; prohibiting smoking outside within 100 feet of a residential structure; restricting occupants from checking in without the presence of the owner or the owner's designee; and prohibiting occupants from parking on public or private streets if on-property parking is available. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use, and are required to display the transaction privilege tax license in any online advertisement for rental of the unit. Establishes penalties for violations.

ARS Titles Affected: [9](#) [11](#)

First sponsor: Rep. Kavanagh (R - Dist 23)

*Recommend Oppose (Last year's Rep. Kavanagh's HB 2875 that failed on the House floor 25-35)*

#### **HCR 2011 Short-Term Rentals; Vacation Rentals**

The 2022 general election ballot is to carry the question of whether to amend the state Constitution to repeal statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Land use laws that regulate a vacation rental or short-term rental are excluded from statute entitling a property owner to just compensation if existing rights to use private real property are reduced by the enactment of any land use law enacted after the date the property is transferred to the owner and the action reduces the fair market value of the property.

ARS Titles Affected: 99

First sponsor: Rep. Lieberman (D - Dist 28)

Others: Rep. Butler (D - Dist 28) , Sen. Marsh (D - Dist 28) , Rep. Pawlik (D - Dist 17) , Rep. Shah (D - Dist 24) , Rep. Teran (D - Dist 30)

*Recommend Support (Full Repeal of 2016 SB1350 to be sent to the 2022 ballot and by-passing the Governor)*

## **Construction Sales Tax**

### **HB 2211 TPT; Prime Contracting; Exemptions; Certificates**

Various changes to statutes relating to transaction privilege taxes (TPT) for prime contracting. The definitions of "modification" and "alteration" for the purpose of computing the tax base for the prime contracting classification of TPT are modified. A certificate that a contractor provides to a person stating that the contractor is liable for any amount of transaction privilege taxes due is valid for a period of up to one year. After the certificate expires, the contractor is allowed to execute and provide to the person a new certificate. The Department of Revenue (DOR) is required to prescribe a form for a certificate to be used by a prime contractor that is subject to TPT for purchasing tangible personal property, the purchase price of which was excluded from the tax base under the retail classification of TPT. The prime contractor is required to obtain the certificate from DOR, and the certificate is valid for up to one year. After the certificate expires, the contractor is allowed to obtain a new certificate. Applies to contracts entered into beginning January 1, 2022.

ARS Titles Affected: [42](#)

First sponsor: Rep. Cobb (R - Dist 5)

Others: Rep. Bolick (R - Dist 20) , Rep. Toma (R - Dist 22)

*Recommend Oppose (Cobb's bill from previous year that would be detrimental to the Town)*

### **SB 1721 TPT: Prime Contracting Classification**

The gross proceeds of sales or gross income derived from a construction contract with an owner of real property or the improvements to real property that does not exceed \$100,000 per unit for a "residential project" (defined) or \$1 million for a nonresidential

project is not subject to tax under the prime contracting classification of transaction privilege taxes, and is required to be exempt from municipal transaction privilege and use taxes. Only the contract price is used to determine whether a contract exceeds the threshold amount described in this paragraph with no subtractions for amounts paid to subcontractors or any deductions or exemptions allowed. Project elements cannot be artificially separated from a contract to cause a project to qualify for this exemption. The Department of Revenue has the burden of proving that project elements have been artificially separated from a contract. A contract that primarily involves construction of any electricity generating facility or system installed on any commercial, residential or governmental property, including the maintenance, repair, replacement or alteration of existing improvements of an electricity generating or distribution facility, is not subject to tax under the prime contracting classification of transaction privilege taxes. Retroactive to contracts entered into beginning July 1, 2021. Establishes provisions for application to contracts that were bid or entered into from January 1, 2015 through July 1, 2021.

ARS Titles Affected: [41](#) [42](#)

First sponsor: Sen. Fann (R - Dist 1)

*Recommend Support*

### **Electronic Traffic Enforcement**

#### **SB 1419 Highway Video Surveillance; Prohibition**

The state and political subdivisions are prohibited from conducting "highway video surveillance" (defined) on a controlled access highway or on a sidewalk. A person who suffers an injury as a result of a violation of this prohibition is entitled to damages of at least \$1,000 for each violation, plus costs and reasonable attorney fees. Statutes authorizing and regulating photo enforcement are repealed.

ARS Titles Affected: [28](#)

First sponsor: Sen. Rogers (R - Dist 6)

*Recommend Oppose*

### **Preemption for Police Department 'Defunding'**

#### **HB 2310 Municipalities; counties; law enforcement budgets**

Triggered by a 10% reduction of a law enforcement agency's budget. The AG would investigate within 30 days to verify the 10% reduction. If confirmed, the AG would require municipality to restore the budget within thirty days or AG would notify the state treasurer who would redistribute state shared monies in an equal amount to the reduction.

First sponsor: Sen. Rogers (R - Dist 6)

Representatives Roberts: Barton, Biasiucci, Blackman, Bolick, Bowers, Burges, Carroll, Chaplik, Cobb, Dunn, Fillmore, Finchem, Grantham, Griffin, Hoffman, Kaiser, Kavanagh, Nguyen, Nutt, Osborne, Parker, Payne, Pingerelli, Toma, Wilmeth

*Recommend Oppose, Potential loss of State Shared Revenue with fluctuating unfunded pension payments*

**HB2420 law enforcement budget; reduction; certification** This is a budget certification by the state of a county or municipality law enforcement budget. The reduction must be tied to reduced revenues or be subject to state shared revenue withholding.

First sponsor: Representatives Carroll, Wilmeth

*Recommend Oppose, Potential loss of State Shared Revenue with fluctuating unfunded pension payments*

**SB1333 law enforcement; budget reduction; prohibition**

This is similar to HB2310, but is triggered at any level of reduction to a PD budget. The state treasurer would withhold the same amount from the municipality's state shared revenues. A 25% reduction would see a withholding of the entire police department budget by the state treasurer until restoration. This bill provides exemptions for employee related expenses (health care or pension). It does authorize a county sheriff to assume law enforcement functions if the municipality's budget is reduced by 25%. Funds withheld by the treasurer under this bill would be available to the county sheriff in the form of grants.

First sponsor: Gowan

*Recommend Oppose, Potential loss of State Shared Revenue with fluctuating Police Budgets*

**Tourism Marketing Authorities**

**HB 2161 AND SB1101 Tourism Marketing Authorities (Both bills are the same)**

Establishes a new chapter in Title 9 (Cities and Towns) and a new chapter in Title 11 (Counties) allowing the governing body of one or more municipalities and/or of a county with a population of less than 2 million persons (all but Maricopa County) to adopt a resolution, on presentation of a petition signed by the owners of at least 67 percent of the transient lodging rooms in the geographic area, forming a tourism marketing authority to promote and enhance tourism in that geographic area. Establishes powers and duties of a tourism marketing authority, including authorization to levy an assessment of up to \$5 per room on transient lodging rooms sold per night. A tourism marketing authority is governed by a board of directors, and budgeting, recordkeeping and reporting requirements for the board are specified. Establishes a process for termination of a tourism marketing authority. Emergency clause.

ARS Titles Affected: [9](#) [11](#)

First sponsor: Rep. Kaiser (R - Dist 15) and Sen. Pace (R - Dist 25)

Others: Rep. Blackman (R - Dist 6) , Rep. Chaplik (R - Dist 23) , Rep. Cobb (R - Dist 5) , Rep. Weninger (R - Dist 17) and Sen. Bowie (D - Dist 18)

*Recommend Support (Last year's TMA bill that Experience Scottsdale and the Arizona Lodging and Tourism Association would like the Town to support)*