



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 798

**An Act to regulate the operation of tourist
accommodation establishments in the
“tourist homes” class and define the role
and responsibilities of online rental
intermediaries**

Introduction

**Introduced by
Mr. Amir Khadir
Member for Mercier**

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EXPLANATORY NOTES

The purpose of this bill is to regulate the operation of tourist accommodation establishments in the “tourist homes” class and define the role and responsibilities of the legal persons (online rental intermediaries) that, via websites or mobile applications, enable transactions to be concluded for the rental of accommodation units in the “tourist homes” class in Québec and that collect the consideration on behalf of tourist accommodation establishment operators.

The Act respecting tourist accommodation establishments is amended to require online rental intermediaries to report any information to the Agence du revenu du Québec that the latter requires with regard to transactions concluded via websites or mobile applications. Such information includes the address of the accommodation unit, the number of overnight stays, the price paid and any other information determined by government regulation.

The Government may determine by regulation the maximum number of tourist accommodation establishment classification certificates that a person, the person’s spouse, or a legal person controlled by the person or of which the person is a director or an officer may hold in a given territory. The Regulation respecting tourist accommodation establishments is amended to prohibit a person, the person’s spouse, or a legal person controlled by the person or of which the person is a director or an officer from holding more than one classification certificate in the “tourist homes” class in the territories of Ville de Québec and Ville de Montréal.

In addition, the Regulation respecting tourist accommodation establishments is amended to allow tourist homes offering accommodation fewer than 61 days per year to be operated without the classification certificate required under the Act respecting tourist accommodation establishments. In such cases, the operator must occupy the premises throughout the remainder of the year.

The Act respecting the Québec sales tax is amended to introduce the definition of “online rental intermediary”. Online rental intermediaries must ask persons other than small suppliers for proof of QST registration and collect the sales tax, as mandataries of the Minister, unless the person making the taxable supply is a small supplier.

The bill also provides that, when a tourist accommodation establishment operator uses the services of an online rental intermediary to rent out a particular accommodation unit more than once in a year, the online rental intermediary must collect the tax on lodging on behalf of the operator when collecting the consideration.

Finally, the Government may determine by regulation the terms governing tax collection and payment by online rental intermediaries.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting tourist accommodation establishments (chapter E-14.2);
- Act respecting the Québec sales tax (chapter T-0.1).

REGULATION AMENDED BY THIS BILL:

- Regulation respecting tourist accommodation establishments (chapter E-14.2, r. 1).

Bill 798

AN ACT TO REGULATE THE OPERATION OF TOURIST ACCOMMODATION ESTABLISHMENTS IN THE “TOURIST HOMES” CLASS AND DEFINE THE ROLE AND RESPONSIBILITIES OF ONLINE RENTAL INTERMEDIARIES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING TOURIST ACCOMMODATION ESTABLISHMENTS

1. Section 1 of the Act respecting tourist accommodation establishments (chapter E-14.2) is amended by adding the following paragraph at the end:

“In addition, “online rental intermediary” means a legal person that, via a website or mobile application, enables a transaction to be concluded for the rental of an accommodation unit in the “tourist homes” class in Québec and collects the consideration on behalf of the tourist accommodation establishment operator.”

2. Section 7 of the Act is amended by adding the following paragraph at the end:

“The regulation of the Government that determines the classes of tourist accommodation establishments must provide for the “tourist homes” class for establishments offering accommodation in furnished apartments, houses or cottages, including self-catering kitchen facilities.”

3. The Act is amended by inserting the following division after section 32.1:

“DIVISION III.1

“ONLINE RENTAL INTERMEDIARY

“32.1.1. An online rental intermediary shall, without having to obtain the consent of the tourist accommodation establishment operator, report any information to the Agence du revenu du Québec that the latter requires with regard to transactions concluded via the online rental intermediary’s website or mobile application for the rental of an accommodation unit in an establishment in the “tourist homes” class. Such information includes the address of the accommodation unit, the number of overnight stays, the price paid and any other information determined by regulation of the Government.

The online rental intermediary must keep the information on each transaction for a period of six years.”

4. Section 36 of the Act is amended by adding the following paragraph at the end:

“(17) determine the maximum number of classification certificates for a class of tourist accommodation establishment that a person, the person’s spouse, or a legal person controlled by the person or of which the person is a director or an officer may hold in a given territory.”

5. The Act is amended by inserting the following section after section 38:

“38.1. An online rental intermediary who allows anyone contravening a provision of section 6 to conclude a transaction for the rental of an accommodation unit via a website or mobile application is guilty of an offence and is liable to a fine of \$5,000 to \$50,000.”

REGULATION RESPECTING TOURIST ACCOMMODATION ESTABLISHMENTS

6. The Regulation respecting tourist accommodation establishments (chapter E-14.2, r. 1) is amended by inserting the following after section 8:

“8.1. A tourist home offering accommodation fewer than 61 days per year may be operated even if the classification certificate provided for in section 6 of the Act respecting tourist accommodation establishments (chapter E-14.2) has not been issued for the establishment, provided the operator occupies the premises throughout the remainder of the year.

“DIVISION III.1

“MAXIMUM NUMBER OF CLASSIFICATION CERTIFICATES PER CLASS OF ESTABLISHMENT IN CERTAIN TERRITORIES

“9. In the territory of Ville de Québec, a person, the person’s spouse, or a legal person controlled by the person or of which the person is a director or an officer may hold no more than one classification certificate in the “tourist homes” class.

“9.1. In the territory of Ville de Montréal, a person, the person’s spouse, or a legal person controlled by the person or of which the person is a director or an officer may hold no more than one classification certificate in the “tourist homes” class.”

ACT RESPECTING THE QUÉBEC SALES TAX

7. Section 1 of the Act respecting the Québec sales tax (chapter T-0.1) is amended by inserting the following definition in alphabetical order:

““online rental intermediary” means any business that, via a website or mobile application, enables a transaction to be concluded for the rental of an accommodation unit in the “tourist homes” class in Québec and collects the consideration on behalf of the tourist accommodation establishment operator;”.

8. The Act is amended by inserting the following section after section 410:

“410.0.1. An online rental intermediary shall require proof of registration from any tourist accommodation establishment operator who rents out an accommodation unit via a website or mobile application, unless the person is a small supplier.”

9. The Act is amended by inserting the following section after section 422:

“422.1. An online rental intermediary shall, as a mandatory of the Minister, collect the tax payable by the recipient under section 16, except where the person who makes the taxable supply is a small supplier.

The online rental intermediary that collects the tax or an amount equal to the tax must comply with sections 425 and 426. However, the requirement to register continues to apply to the person who makes the taxable supply.

The online rental intermediary is not a mandatory within the meaning of section 41.0.1 of this Act.”

10. Section 541.23 of the Act is amended by inserting the following definition in alphabetical order:

““online rental intermediary” has the meaning assigned by section 1;”.

11. The Act is amended by inserting the following section after section 541.25:

“541.25.1. If the operator of a sleeping-accommodation establishment uses the services of an online rental intermediary to rent out a particular accommodation unit in the “tourist homes” class more than once in a year, the online rental intermediary is required to collect the tax on behalf of the operator at the same time as the consideration.

An online rental intermediary that collects the tax or an amount equal to the tax must comply with sections 541.26, 541.27 and 541.32. However, the requirement to register and to hold a registration certificate under the first paragraph of section 541.28 continues to apply to the operator of the sleeping-accommodation establishment.”

12. Section 541.28 of the Act is amended by adding the following paragraph:

“An online rental intermediary may not allow a person to rent out a particular accommodation unit in the “tourist homes” class via a website or mobile application more than once in a year without first obtaining proof that the person holds a registration certificate.”

MISCELLANEOUS AND FINAL PROVISIONS

13. The Government determines by regulation the terms governing an online rental intermediary’s collection and payment of the tax on lodging and the tax payable under section 16 of the Act respecting the Québec sales tax (chapter T-0.1). It also determines the provisions of the Act respecting the Québec sales tax applicable to online rental intermediaries.

14. This Act comes into force on (*insert the date of assent to this Act*), except sections 9 and 11, which come into force on the date of coming into force of the regulation made under section 13.