

1 [Opposing California State Senate Bill 1102 (McGuire) - Short-Term Rentals and Collection of  
2 Transient Occupancy Taxes]

3 **Resolution opposing California State Senate Bill 1102, authored by Senator McGuire,**  
4 **which would infringe upon the City’s longstanding home rule powers, preclude the City**  
5 **from effectively enforcing the application of its transient occupancy tax to short-term**  
6 **residential rentals, and prevent the City from obtaining information from platforms that**  
7 **may allow the City to enforce its zoning, housing, building, and life safety laws.**

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9 WHEREAS, Senate Bill 1102, which as currently drafted purports to apply to charter  
10 cities and counties and to restrict the City’s collection of transient occupancy taxes (“TOT”)  
11 imposed on short-term residential rentals to three methods:

12 (1) Short-term residential rental platforms (“platforms”) could elect to collect and remit  
13 TOT to the City for transactions they facilitate, as long as the City does not bar such  
14 option to all platforms. If the platforms make this election and the City does bar it, only  
15 the State Controller would be permitted to audit the platforms’ TOT collection, and the  
16 state law would deny City access to information in the possession of the State  
17 Controller or the platforms regarding the short-term residential rental hosts’ (“host”)  
18 names or addresses, or any other personally identifiable information about the hosts or  
19 their guests, whether for TOT enforcement purposes or otherwise;

20 (2) If the platforms do not elect to collect and remit the TOT to the City for the  
21 transactions they facilitate, or the City elects to preclude any such elections, then state  
22 law would deny the City the right to require the platforms to collect the TOT and  
23 effectively force the City to engage in the costly and highly inefficient collection of the  
24 TOT from the individual hosts; and

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1 (3) If, prior to June 1, 2016, a platform and the City enter into a binding legal  
2 agreement relating to the collection of the TOT, such agreement would govern the  
3 collection of the TOT and would preclude application of paragraphs (1) and (2) to that  
4 platform, unless the platform and the City mutually agree to terminate the agreement;  
5 and

6 WHEREAS, Under the California Constitution, the City's power to tax is a core element  
7 of its fundamental home rule power over municipal affairs as a charter city. Indeed, the City's  
8 TOT is a uniquely local tax with the rate, base, exemptions, and collection procedures that the  
9 City has established and adapted to correspond to the City's rental market for tourist and  
10 transient lodgings; and

11 WHEREAS, Senate Bill 1102 would conflict with the City's home rule power and its  
12 ability to govern its municipal affairs, including the power to collect its taxes, which is a purely  
13 local matter that presents no matter of statewide concern; and

14 WHEREAS, Senate Bill 1102's preclusion of City access to the hosts' names,  
15 addresses, and other personally identifiable information from both the State Controller and the  
16 platforms would effectively prevent the City from enforcing the application of its TOT to short-  
17 term residential rentals; and

18 WHEREAS, Senate Bill 1102's bar against the City to the hosts' names, addresses,  
19 and personally identifiable information from both the State Controller and the platforms for any  
20 purpose may also impair the City's capacity to enforce the City's zoning, housing, building,  
21 and life safety laws; now, therefore, be it

22 RESOLVED, That the San Francisco Board of Supervisors opposes Senate Bill 1102  
23 particularly in its application to charter cities or counties, such as San Francisco; and be it

24 FURTHER RESOLVED, That the San Francisco Board of Supervisors directs the Clerk  
25 of the Board to transmit this resolution upon passage to SB 1102 Sponsor, State Senator

1 McGuire, as well as to the City's Lobbyist, in order to fully execute his or her charge to  
2 advocate on behalf of the City and County of San Francisco and convey the City's policy  
3 positions.

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