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A BILL

22-92

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To require the Department of Consumer and Regulatory Affairs to license the operation of short term rentals, to establish duties and enforcement powers for the Department, to establish enforcement procedures for short term rental requirements, to require short term rental hosts to obtain a license to operate, to create a new license for short term rentals, to create a new license endorsement for vacation rentals, to establish health and safety requirements for hosts, to establish restrictions for hosts, to establish requirements governing the listing of short term rentals, to permit limited vacation rentals, to require short term rental hosts and booking services to maintain records, to require booking services to submit a monthly report of short term rental booking information, to require hosts to pay transient lodging taxes, to require booking services to collect and remit transient lodging taxes, and to establish penalties for violations of this act by the Department.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Short Term Rental Regulation Act of 2018.”

TITLE I. SHORT TERM RENTAL REGULATIONS.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) “Booking service” means any person or entity that facilitates short term rental reservations and collects payment for lodging in a short term rental. A booking service shall be a room remarketer within the meaning of D.C. Official Code § 47-2001(o-1).

26 (2) "Department" means the Department of Consumer and Regulatory Affairs or
27 its successor agency.

28 (3) "Host" means a natural person who uses a booking service to provide a short
29 term rental to a transient guest. A host shall be a vendor within the meaning of chapters 20 and
30 22 of Title 47 of the D.C. Official Code.

31 (4) "Primary Residence" means the property is eligible for the homestead
32 deduction pursuant to D.C. Official Code § 47-850.

33 (5) "Short term rental" means paid lodging for transient guests with the host
34 present, unless it is a vacation rental. A short term rental is not a hotel, inn, motel, boarding
35 house, rooming house, or bed and breakfast. A short term rental operates within a portion of the
36 host's residential property, unless it is a vacation rental.

37 (6) "Vacation rental" means a short term rental that operates within a host's
38 residential property wherein a transient guest has exclusive use of the host's property during the
39 transient guest's stay and the host is not present on the premises. A vacation rental is subject to
40 additional restrictions including subsection 106(e).

41 Sec. 102. Restrictions on short term rentals.

42 (a) A short term rental shall have a valid basic business license with a "Short Term
43 Rental" endorsement, in addition to any other licenses required by law. A vacation rental shall
44 have a valid basic business license with a "Short Term Rental: Vacation Rental" endorsement, in
45 addition to any other license required by law.

46 (b) A host providing a short term rental shall have current liability insurance of at least
47 \$500,000, which may be provided by the booking service. The Mayor may adjust the minimum
48 dollar amount of this insurance requirement by rulemaking.

49 (c) A host shall provide each transient guest in a short term rental a 24-hour accessible
50 telephone number to the host, or to a person who has authority to act on behalf of the host, in the
51 event of an emergency.

52 (d) The property at which the short term rental is located shall be the host's primary
53 residence.

54 (e) A host may offer multiple short term rentals at a single property, such as a bedroom
55 and an in-law suite, subject to all applicable occupancy limits contained in Title 11, Title 12 and
56 Title 14 of the DCMR

57 Sec. 103. Short term rental license application.

58 A host applying for a short term rental license shall:

59 (1) Provide evidence that he or she complies with the requirements of section 102;

60 (2) If the short term rental is on property within a condominium, cooperative, or
61 homeowner association, provide proof that the condominium, cooperative, or homeowner
62 association permits the operation of short term rental;

63 (3) State the number of, and describe, the short term rentals to be provided by the
64 host on the property; and

65 (4) Pay the license fee, which shall be determined by the Mayor in regulations;
66 provided, that the fee for a “Short Term Rental” endorsement and “Short Term Rental: Vacation
67 Rental” endorsement shall be the same.

68 Sec. 104. Short term rental license issuance.

69 (a) The Department shall not issue a short term rental license to any person or entity other
70 than to a host, as defined in section 101.

71 (b) The license shall be applicable to the property on which the short term rental is
72 located. The presence of more than one short term rental at the host’s property shall not require
73 separate licenses.

74 (c) The Department shall not issue more than one short term rental license to a host.

75 (d) The Department shall not issue a short term rental license to a host if prohibited by
76 the Zoning Regulations of the District of Columbia (11 DCMR).

77 (e) An inspection of the premises by the Department shall not be a prerequisite for
78 issuance of a short term rental license.

79 (f) A short term rental license shall be valid for a period of 2 years from the date of
80 issuance. Renewal licenses shall be issued in the same manner as initial licenses.

81 Sec. 105. Suspension or revocation of short term rental license.

82 The Mayor shall promulgate by rulemaking the procedures for suspension, revocation,
83 and other licensing sanctions for violation of this title.

84

85 Sec. 106. Requirements for short term rentals.

86 (a) A host of a short term rental shall, throughout the duration of occupancy by the
87 transient guest:

88 (1) conspicuously post a copy of the basic business license and the short term
89 rental license within the interior of the short term rental unit;

90 (2) conspicuously post within the interior of the rental unit a 24-hour accessible
91 telephone number to the host, or to a person who has authority to act on behalf of the host, in the
92 event of an emergency;

93 (3) maintain a working smoke detector outside the sleeping area of the rental unit
94 and on all habitable floors of the host's property, and provide a working carbon monoxide
95 detector on all habitable floors of the host's property;

96 (4) provide unobstructed egress from the rental unit; and

97 (5) Clean the short term rental unit between occupancy by different transient
98 guests, including the change of bed linens and towels.

99 (b) A host shall not list a short term rental by using a booking service that does not permit
100 the inclusion of the Short Term Rental or Short Term Rental: Vacation Rental license number
101 clearly displayed in the listing; provided, that a host shall not be held liable for the failure of a
102 booking service to display a license number that the host has provided.

103 (c) A host shall retain records of each booking of a short term rental for a period of 2
104 years and shall make the records available to the Department upon request during reasonable

105 hours. Information obtained by the Department pursuant to this subsection shall be confidential
106 and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective
107 March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.); provided, that the Office of
108 the Chief Financial Officer and the Office of the Attorney General may inspect the information
109 for enforcement purposes.

110 (d) A host shall pay all applicable transient lodging taxes, including those imposed under
111 chapters 20 and 22 of Title 47 of the D.C. Official Code. Such taxes may be collected and
112 remitted to the District of Columbia on behalf of the host by a booking service or person.

113 (e) A short term rental shall operate as a vacation rental for no more than 90 nights
114 cumulatively in any calendar year.

115 (f) Occupancy in a short term rental shall be limited to a maximum of 8 transient guests,
116 or 2 guests per bedroom, whichever is greater.

117 Sec. 107. Legal rights of guests.

118 A transient guest of a short term rental shall not be deemed to be a tenant as defined
119 under either the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C.
120 Official Code § 42-3501.03(36)) or the Rental Housing Conversion and Sale Act of 1980,
121 effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.03(17)).

122 Sec. 108. Requirements for booking services.

123 (a)(1) A booking service shall permit a host to provide a prospective guest with the short
124 term rental license number for a short term rental prior to booking;

125 (2) A booking service shall not book a short term rental in the District of
126 Columbia, within 5 business days upon notice from the Department that the license for the short
127 term rental has been suspended or revoked.

128 (3) A booking service shall not book a short term rental that was the subject of
129 notice provided pursuant to paragraph (2), until notified by the Department that the license for
130 that short term rental has been reinstated.

131 (4) A booking service shall not book a vacation rental for more than 90 nights
132 cumulatively in a calendar year. For the purposes of complying with this paragraph, a booking
133 service may assume that an accommodation is a vacation rental, if the license provided by the
134 host has a “Short Term Rental: Vacation Rental” endorsement.

135 (b)(1) A booking service shall submit to the Department a report itemizing transactions
136 for which the booking service charged or received a fee for short term rentals in the District.

137 (2) The report shall include the following information for each transaction:

138 (A) The name of the host who provided the accommodation;

139 (B) The physical address of the accommodation;

140 (C) The “Short Term Rental” or “Short Term Rental: Vacation Rental”
141 license number of the accommodation;

142 (D) The url of which the short term rental unit is listed;

143 (E) The dates for which each transient guest procured use of the short term
144 rental using the booking service;

145 (F) Whether the short term rental was booked as a vacation rental;
146 (G) The rate charged for each short term rental stay; and
147 (H) Any other information deemed necessary by the Department and
148 prescribed through regulations.

149 (3) The report shall be submitted in a time, manner and form established by the
150 Department, which may include electronic submission in a format established by the
151 Department.

152 (4) The report shall be submitted on a monthly basis, or less frequently as
153 determined by the Department.

154 (c) Information submitted to the Department pursuant to subsection (b) shall be
155 considered confidential and shall not be subject to disclosure under the Freedom of Information
156 Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*);
157 provided, that the Office of the Chief Financial Officer and the Office of the Attorney General,
158 may inspect the information for enforcement purposes.

159 (d) A booking service shall retain records of all short term rentals in the District for 2
160 years.

161 (e) A booking service shall obtain from each host consent to provide the information
162 described in this section to the Department. Obtaining lawful consent may consist of providing
163 notice to the host that use of such booking service constitutes consent to the Department
164 disclosure. It shall not be a defense to a violation of this section that the booking service did not

165 obtain consent.

166 (f) A booking service shall collect and remit on behalf of hosts all required transient
167 occupancy taxes, as provided under section 106(d) of this title.

168 Sec. 109. Enforcement.

169 (a) The Department shall:

170 (1) Maintain records on licensed short term rentals;

171 (2) Maintain statistics on short term rental activity and provide reports annually at
172 the request of the Mayor or the Council;

173 (3) Monitor short term rentals for compliance with this title and all applicable
174 regulations including the zoning regulations;

175 (4) Investigate suspected violations of this title by booking services or hosts,
176 provided that the Office of the Chief Financial Officer shall investigate suspected violations of
177 the requirements under Section 106(d) and Section 108(f); and

178 (5) Issue administrative penalties and orders to enforce the
179 provisions of this act.

180 (b) The Department may refer violations of this act to the Office of the Attorney General.

181 (c) The Department shall monitor listings of short term rentals by booking services.

182 Upon discovery of a violation of this act, the Department shall immediately notify the relevant
183 booking service and the host.

184 (d) If any part of a booking for a short term rental claims or suggests that a short term

185 rental guest will have exclusive use of the host's entire residence during the guest's stay, this
186 shall serve as prima facie evidence that the short term rental is a vacation rental, notwithstanding
187 the type of endorsement license actually issued.

188 Sec. 110. Penalties.

189 (a) Any host found to have violated any provision of section 102 and 106 of this act shall
190 be liable for a civil penalty of:

191 (A) \$500 for the first violation;

192 (B) \$2,000 for a second violation; and

193 (C) \$6,000 for a third violation and a revocation of the related short term
194 rental license.

195 (b) Any booking service found to have violated any provision of section 108 shall be
196 liable for a civil penalty of \$1,000 for each booking transaction made in violation of this act.

197 (c) The Mayor may adjust these penalties by rulemaking.

198 (d) The penalties prescribed in subsection (a) and (b) of this section shall be applicable
199 only for violations occurring after June 30, 2019.

200 Sec. 111. Rules.

201 The Mayor may promulgate rules to implement this Title, pursuant to the District of
202 Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C.
203 Official Code § 2-501 *et seq.*).

204

205 TITLE II. CONFORMING AMENDMENTS.

206 Sec. 201. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as
207 follows:

208 (a) Section 47-2828 is amended by adding a new subsection (c-1) to read as follows:

209 “(c-1) (1) Licenses for short term rentals in dwellings shall be issued under the basic
210 business license system as a “Short Term Rental” endorsement on a basic business license.

211 “(2) Licenses for vacation rentals – defined as a short term rental that operates
212 within a host’s residential property wherein a transient guest has exclusive use of the host’s
213 property during the transient guest’s stay and the host is not present on the premises – shall be
214 issued under the basic business license system as a “Short Term Rental: Vacation Rental”
215 endorsement on a basic business license.”.

216 (b) Section 47-2851.03(a)(6) is amended as follows:

217 (1) Subparagraph (A) is amended by striking the word “and”.

218 (2) New subparagraphs (C) and (D) are added to read as follows:

219 “(C) Short Term Rental; and

220 “(D) Short Term Rental: Vacation Rental.”.

221 TITLE III. APPLICABILITY, FISCAL IMPACT STATEMENT, AND EFFECTIVE
222 DATE.

223 Sec. 301. Applicability.

224 (a) Section 109 shall apply upon the date of inclusion of their fiscal effect in an approved

225 budget and financial plan.

226 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
227 an approved budget and financial plan and provide notice to the Budget Director of the Council
228 of the certification.

229 (c)(1) The Budget Director shall cause the notice of the certification to be published in
230 the District of Columbia Register.

231 (2) The date of publication of the notice of the certification shall not affect the
232 applicability of this act.

233 Sec. 302. Fiscal impact statement.

234 The Council adopts the fiscal impact statement in the committee report as the fiscal
235 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
236 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

237 303. Effective date.

238 This act shall take effect following approval by the Mayor (or in the event of veto by the
239 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
240 provided in section 602(c)(1) of the District of Columbia Home Act, approved December 24,
241 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
242 Columbia Register.