

HOUSE No. 4869

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
24 BEACON STREET · BOSTON, MA 02133

KARYN POLITO
LIEUTENANT GOVERNOR

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To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment House Bill No. 4841, “An Act Regulating and Insuring Short-Term Rentals.”

This bill updates the existing room occupancy tax structure to address previously untaxed short-term rentals in the Commonwealth. I support leveling the playing field in the accommodations industry by obligating those individuals or businesses who are running hotel-like businesses to collect and remit the room occupancy tax. For this reason, I have filed a different proposal with regard to such rentals in both my Fiscal Year 2018 and Fiscal Year 2019 budgets.

However, the bill approved by the Legislature may inadvertently affect other individuals and small businesses in ways that deserve further consideration. First, by not exempting those properties that are rented for de minimis amounts, the bill will require many homeowners who rent out their homes for one or two weeks a year to register as an operator with the Department of Revenue and to collect and remit the room occupancy tax. Below, I propose to exempt operators who rent out their properties for fourteen days or less a year as a short-term rental from the room occupancy tax. An exemption of fourteen days would reduce the Commonwealth’s projected revenues by approximately \$300,000, or 1%, while exempting approximately one-sixth of the operators that would otherwise be required to register, collect and remit. This change

would exempt those who participate in this new industry only occasionally, while allowing the extension of fair tax treatment to the growing short-term rental sector as it competes with hotel and motel businesses.

The bill approved by the Legislature may also affect Chapter 64G revenues in a manner that may negatively affect the Commonwealth's outstanding special obligation bonds issued under the Convention Center Act, Chapter 152 of the Acts of 1997, as amended. The bonds and related bond documents contain several covenants related to the rates of taxation and revenues collected under Chapter 64G, which are pledged to the Convention Center Fund for the repayment of the bonds. By shortening the duration of a stay defined as an "occupancy" subject to tax under Chapter 64G from ninety days to thirty-one days, the bill essentially exempts all stays from thirty-two through ninety days that had previously been subject to tax. This change will reduce the revenue deposited to the Convention Center Fund. I propose to keep the existing definition of "occupancy" to preserve the revenue stream supporting the Commonwealth's bonds. The bill also purports to divert from the Convention Center Fund the new tax revenues expected to be collected as a result of the bill's inclusion of short-term rentals. This may violate the Commonwealth's covenant to bondholders that "pledged receipts" (which include revenues collected under Chapter 64G from "hotel, motel, or other lodging establishment subject to such excise") would not be diverted from the Convention Center Fund during the life of the bonds. I propose striking that section to maintain the Commonwealth's covenants on the bonds.

Finally, I am concerned that the bill threatens the privacy of thousands of Massachusetts residents by requiring the publication of personally identifiable information in a short-term rental registry. Therefore I propose that we publish only the street name and the city or town where the property is located, and not include the street number of the property.

Accordingly, I recommend the bill be amended by striking out, in section 1, the words "(iv) information required to be collected and maintained for operators in the registry, which shall, at a minimum, include a list of legal addresses for accommodations offered for rent by operators who are registered in accordance with section 67 of chapter 62C;" and inserting in place thereof the following:- (iv) information required to be collected and maintained for operators in the registry, which shall, at a minimum, include a list of accommodations offered for rent by operators who are registered in accordance with section 67 of chapter 62C, provided, however, that the location information for any accommodation offered for rent shall be limited to the name of the street and the city or town where the accommodation is located;"

And by striking out, in section 6, in the definition of "occupancy," the figure, "31," and inserting in place thereof the following figure:- 90;

And that the bill be amended in the definition of "short-term rental," by adding the following words:- ; and provided, however, that a property rented for 14 days or less in a calendar year shall not be considered a short-term rental.;

And by striking out, in section 6, new sections 3B through 3D, inclusive, and inserting in place thereof the following sections:-

Section 3B. In addition to the excise imposed under section 3 and any excise imposed under section 3A, an excise shall be imposed on the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within a municipality that is a member of the Cape Cod and Islands Water Protection Fund established under section 19 of chapter 29C at a rate of 2.75 per cent of the total amount of rent for each such occupancy; provided, however, that all revenues received from the excise under this section shall be credited to the Cape Cod and Islands Water Protection Fund. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent. An operator shall pay the excise due to the Cape Cod and Islands Water Protection Fund to the commissioner at the same time and in the same manner as the excise due to the commonwealth.

Section 3C. (a) A city or town that accepts section 3A may, by a separate vote and in the same manner of acceptance as set forth in section 3A, impose upon an operator a community impact fee of not more than 3 per cent of the total amount of rent for each transfer of occupancy of a professionally managed unit that is located within that city or town.

(b) A city or town that votes to impose a community impact fee under subsection (a) may, by a separate additional vote and in the same manner of acceptance as set forth in section 3A, also impose the community impact fee upon each transfer of occupancy of a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence.

(c) All community impact fees under this section shall be paid monthly by the operator to the municipality. A city or town shall dedicate not less than 35 per cent of the community impact fees collected under this section to affordable housing or local infrastructure projects.

I approve the remainder of this Act.

Respectfully submitted

Charles D. Baker,
Governor