

AN ACT

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 provide for the establishment of enforcement procedures for short-term rental requirements, to require short-term rental hosts to obtain a license endorsement to operate a short-term rental, to create a new license endorsement for short-term rentals, to create a new license endorsement for vacation rentals, to establish health and safety requirements and other restrictions for hosts, to establish requirements governing the booking 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.

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).

(2) “Department” means the Department of Consumer and Regulatory Affairs or its successor agency.

(3) “Host” means a natural person who uses a booking service to provide a short-term rental to a transient guest. A host shall be a vendor within the meaning of D.C. Official Code § 47-2001(w) and D.C. Official Code § 47-2201(g).

(4) “Primary residence” means the property is eligible for the homestead deduction pursuant to D.C. Official Code § 47-850.

(5) “Short-term rental” means paid lodging for transient guests with the host present, unless it is a vacation rental. A short-term rental is not a hotel, inn, motel, boarding

house, rooming house, or bed and breakfast. A short-term rental operates within a portion of the host's residential property, unless it is a vacation rental.

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

Sec. 102. Restrictions on short-term rentals.

(a) A short-term rental shall require a valid basic business license with a "Short-Term Rental" endorsement, in addition to any other license required by law. A vacation rental shall require a valid basic business license with a "Short-Term Rental: Vacation Rental" endorsement, in addition to any other license required by law.

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

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

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

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

(f) For the purposes of 18 DCMR § 2414.14, a transient guest of a vacation rental shall not be considered a guest of a resident in the Advisory Neighborhood Commission area designated on an annual visitor parking permit.

Sec. 103. Short-term rental license application.

A host applying for a short-term rental license endorsement shall:

- (1) Provide evidence that he or she complies with the requirements of section 102;
- (2) If the short-term rental is on property within a condominium, cooperative, or homeowner association, provide proof that the condominium, cooperative, or homeowner association permits the operation of a short-term rental;
- (3) State the number of, and describe, the short-term rentals to be provided by the host on the property; and
- (4) Pay the license fee, which shall be determined by the Mayor by rulemaking; provided, that the fee for a "Short-Term Rental" endorsement and "Short-Term Rental: Vacation Rental" endorsement shall be the same.

Sec. 104. Short-term rental license endorsement issuance.

(a) The Department shall not issue a short-term rental license endorsement to any person or entity other than to a host.

(b) The license endorsement shall be applicable to the property on which the short-term rental is located. The presence of more than one short-term rental at the host's property shall not require separate license endorsements.

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

(d) The Department shall not issue a short-term rental license endorsement to a host if prohibited by Title 11 of the District of Columbia Municipal Regulations.

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

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

Sec. 105. Suspension or revocation of short-term rental license endorsement.

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

Sec. 106. Requirements for short-term rentals.

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

(1) Conspicuously post a copy of the basic business license with the short-term rental license endorsement within the interior of the short-term rental;

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

(3) Maintain a working smoke detector outside the sleeping area of the short-term rental and on all habitable floors of the host's property, and provide a working carbon monoxide detector on all habitable floors of the host's property;

(4) Provide unobstructed egress from the short-term rental; and

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

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

(c) A host shall retain records of each booking of a short-term rental for a period of 2 years and shall make the records available to the Department upon request during reasonable hours. Information obtained by the Department pursuant to this subsection shall be confidential and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*); provided, that the Office of the Chief Financial Officer and the Office of the Attorney General may inspect the information for enforcement purposes.

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

(e) A short-term rental shall operate as a vacation rental for no more than 90 nights cumulatively in any calendar year, unless the host has received an exemption pursuant to subsection (f) of this section.

(f)(1)(A) A host may submit an application, on a form provided by the Department, requesting an exemption from the 90-night limit in subsection (e) of this section, if:

(i) The host's employer requires the host to work outside of the District for more than 90 days cumulatively in any calendar year; or

(ii) The host leaves the District to receive treatment for a serious health condition, or to care for a family member who is receiving treatment for a serious health condition, for more than 90 days cumulatively in any calendar year.

(B)(i) If the host is claiming an exemption pursuant to subparagraph (A)(i) of this paragraph, the application submitted pursuant to subparagraph (A) of this paragraph shall be accompanied by a notarized form, signed by a representative of the host's employer, listing the location and duration of the host's work-related assignments outside of the District; provided, that a self-employed host shall submit a signed affidavit attesting that time spent outside the District is work-related and shall provide documentation of the work-related travel.

(ii) If the host is claiming an exemption pursuant to subparagraph (A)(ii) of this paragraph, the application submitted pursuant to subparagraph (A) of this paragraph shall be accompanied by a notarized form, signed by a representative of the health care provider that is providing treatment to the host or the host's family member, attesting to the need for the host or the host's family member to receive treatment for a serious health condition outside of the District.

(2) If the Department determines that the application submitted pursuant to paragraph (1) of this subsection is valid, the Department shall provide the host an exemption from the 90-night limit in subsection (e) of this section, allowing the host to operate a vacation rental for the number of nights equal to:

(A) For a host claiming an exemption pursuant to paragraph (1)(A)(i) of this subsection, the number of days that the host's employer requires the host to work outside of the District; or

(B) For a host claiming an exemption pursuant to paragraph (1)(A)(ii) of this subsection, the number of days that the host is outside of the District to receive treatment for a serious health condition or to care for a family member who is receiving treatment for a serious health condition.

(3) If the Department issues an exemption to a host pursuant to this subsection, the Department shall transmit to all booking services identified by the host a notification of the number of nights that the host may operate a vacation rental.

(4) Six months after the effective date of this act, and every 6 months thereafter, the Department shall list separately on its website:

(A) The number of exemptions granted in the previous 6 months pursuant to paragraph (1)(A)(i) of this subsection; and

(B) The number of exemptions granted in the previous 6 months pursuant to paragraph (1)(A)(ii) of this subsection.

(5) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this subsection.

(6) For the purposes of this subsection, the term:

(A) “Family member” means:

(i) A biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or a person to whom a host stands in loco parentis;

(ii) A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to a host when the host was a child;

(iii) A person to whom a host is related by domestic partnership, as defined by section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), or marriage;

(iv) A grandparent of a host; or

(v) A sibling of a host.

(B) “Health care provider” shall have the same meaning as provided in section 2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(5)).

(C) “Serious health condition” shall have the same meaning as provided in section 101(20) of the Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01(20)).

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

Sec. 107. Legal rights of guests.

A transient guest of a short-term rental shall not be deemed to be a tenant as defined

under either section 103(36) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(36)) or section 103(17) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.03(17)).

Sec. 108. Requirements for booking services.

(a)(1) A booking service shall permit a host to provide a prospective guest with the short-term rental license endorsement number for a short-term rental before booking.

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

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

(4) A booking service shall not book a vacation rental for more than 90 nights cumulatively in a calendar year, unless the Department has transmitted to the booking service a notification that the host has received an exemption pursuant to section 106(f). For the purposes of complying with this paragraph, a booking service may assume that an accommodation is a vacation rental if the license provided by the host has a “Short Term Rental: Vacation Rental” endorsement.

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

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

(A) The name of the host who provided the short-term rental;

(B) The physical address of the short-term rental;

(C) The “Short Term Rental” or “Short Term Rental: Vacation Rental” license endorsement number of the short-term rental;

(D) The url at which the short-term rental is listed;

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

(F) Whether the short-term rental was booked as a vacation rental;

(G) The rate charged for each short-term rental stay; and

(H) Any other information deemed necessary by the Department and prescribed through regulations.

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

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

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

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

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

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

Sec. 109. Enforcement.

(a) The Department shall:

- (1) Maintain records on licensed short-term rentals;
- (2) Maintain statistics on short-term rental activity and provide reports annually at the request of the Mayor or the Council;
- (3) Monitor short-term rentals for compliance with this title and all applicable regulations including the zoning regulations;
- (4) Investigate suspected violations of this title by booking services or hosts; provided, that the Office of the Chief Financial Officer shall investigate suspected violations of sections 106(d) and 108(f); and
- (5) Issue administrative penalties and orders to enforce the provisions of this act.

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

(c) The Department shall monitor listings of short-term rentals by booking services. Upon discovery of a violation of this act, the Department shall immediately notify the relevant booking service and the host.

(d) For purposes of determining whether a host is in violation of this title, if any part of a listing for a short-term rental claims or suggests that a short-term rental guest will have exclusive use of the host's entire residence during the guest's stay, this shall serve as prima facie evidence that the short-term rental is a vacation rental, notwithstanding the type of license endorsement actually issued.

Sec. 110. Penalties.

- (a) A host found to have violated sections 102 or 106 shall be liable for a civil penalty of:
- (1) \$500 for the first violation;

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

(3) \$6,000 for a third violation and a revocation of the related short-term rental license endorsement.

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

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

Sec. 111. Rules.

Except as provided in sections 105 and 106(f)(5), the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title.

TITLE II. CONFORMING AMENDMENTS.

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

(a) Section 47-813(c-8)(2)(A) is amended by striking the phrase “is for nontransient residential dwelling purposes.” and inserting the phrase “is for nontransient residential dwelling purposes; provided, that the property may be used to host transient guests pursuant to an unexpired short-term rental license endorsement issued pursuant to section 104 of the Short-Term Rental Regulation Act of 2018, passed on 2nd reading on November 13, 2018 (Enrolled version of Bill 22-92).” in its place.

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

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

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

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

(1) Subparagraph (A) is amended by striking the phrase “; and” and inserting a semicolon in its place.

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

“(C) Short-Term Rental; and

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

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

Sec. 301. Applicability.

(a)(1) This act shall apply upon the later of:

(A) October 1, 2019; or

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(B) Inclusion of its fiscal effect in an approved budget and financial plan.

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

(3)(A) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

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

(b) Local recurring annual revenues included in the quarterly September 2018 revenue estimate that exceed the annual revenue estimate incorporated in the approved budget and financial plan for Fiscal Year 2019 through Fiscal Year 2022 shall be used to implement provisions of this act.

Sec. 302. Fiscal impact statement.

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

Sec. 303. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia