

Short-Term Rental (STR) Conference Committee Report Summary

The STR Conference Committee Report, as amended, strikes a modest balance to support the growing short-term rental marketplace and traditional lodging industry as integral components to our state's economic ecosystem. The Report provides a comprehensive framework to tax and regulate short-term rentals and achieves the following goals:

- Levels the playing field
- Preserves local control and empowers cities and towns to locally regulate short-term rentals
- Protects consumers
- Enhances tax compliance and transparency

***** Indicates items included in the compromise amendment adopted on December 20, 2018**

Levels the playing field

The conference committee report levels the playing field by taxing short-term rentals and accommodations rented through hosting platforms like AirBnb at the same uniform tax rate imposed on stays at traditional brick-and-mortar lodging accommodations like hotels/motels/bed & breakfast establishments.

- Applies the state's room occupancy excise (5.7%), the local option excise (6%), and convention center financing fee (2.75%) to short term rentals and accommodations rented through an intermediary/hosting platform. (Note: *****effective date on taxes – July 1, 2019**)
 - The expanded tax base will automatically apply to all 175-plus cities and towns that have already adopted the local room occupancy excise to date **AND** will benefit cities and towns that choose to adopt the local room occupancy excise in the future.
 - Maintains exemption for owner-occupied bed & breakfast homes that rent out fewer than 4 bedrooms (Note: Maintains existing tax on owner-occupied bed & breakfast establishments that rent out 4 or more bedrooms)
 - ***Maintains the Commonwealth's covenant on the outstanding special obligation bonds issued under the Convention Center Act, Chapter 152 of the Acts of 1997 and postpones the Boston Convention and Exhibition Center financing fee on short-term rentals rented in Boston, Cambridge, Worcester, Springfield, West Springfield and Chicopee until the bonds on the BCEC are paid off. Bonds are scheduled, at the earliest, to be paid off by 2029.

- Establishes a Cape Cod and Islands Water Protection Fund and establishes a 2.75% excise to be imposed on all accommodations (hotels/motels/bed & breakfast establishments/and short-term rentals) in Cape Cod municipalities subject to the Fund.
- Establishes a local option community impact fee of up to an additional 3% on operators who rent out 2 or more professionally-managed short-term rental units within a municipality
 - Municipalities shall dedicate no less than 35% of revenue generated from the new local option fee to either affordable housing or local infrastructure needs.
 - Permits a city or town who accepts this new local option – subject to a separate additional vote – to apply the fee to certain owner-occupied short-term rental units by an operator in the city or town.
- ***Requires operators of short-term rentals to register with DOR and collect and remit room occupancy excise tax on day one. However, operators may file an exemption declaration, signed by the operator, to rent for no more than 14 days in a calendar year. This would exempt short-term rental stays from required taxes and fees unless the number of stays exceeds 14 days.
 - ***Any operator who rents a short-term rental for 15 days or more, or who fails to register and file a declaration, would be required to pay taxes and applicable fees under state law, including the required taxes and fees on the first 14-days that the short-term rental was rented in the calendar year.

Preserves local control and empowers cities and towns to regulate short-term rentals

The conference committee report preserves local control and ensures cities or towns are empowered to regulate operators of short-term rentals at the local level.

The conference committee report empowers cities and towns so they **may do the following:**

- Regulate the existence or location of operators of short-term rentals.
- Regulate the class of operators and number of local licenses or permits issued to persons operating accommodations; and the number of days a person may operate and rent out such accommodations in a calendar year.
- Require health and safety inspections for properties or premises occupied, operated, managed or used by operators as a short-term rental or any other type of accommodation subject to the excise.
- Require that cost of any inspection conducted by muni's to be paid by the operator/hosts
- Require operators to demonstrate that any properties or premises occupied, operated, managed or used as a short-term rental are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices.

- Require licensing or registration of operators.
 - Establish a civil penalty for violation of an ordinance or by-law; and
 - Establish a reasonable fee to cover costs associated with the administration and enforcement of regulating operators and accommodations.
- Require operators to post inside the residential unit information regarding the location of all fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.

Protects consumers

The conference committee report ensures effective safeguards and protects consumers by requiring operators of short-term rentals and hosting platforms to maintain appropriate levels of insurance coverage (****Effective date – July 1, 2019**)

The insurance requirements are as follows:-

- Operators are required to provide notice to all insurers of the host's intention to use the property as an accommodation.
- Require operators to maintain liability insurance in the aggregate of not less than \$1,000,000 to cover each short-term rental **or** conduct each rental transaction through a hosting platform that provides equal or greater coverage.
- Hosting platforms must provide notice to the operator that standard homeowners or renters insurance may not cover property damage or bodily injury to a third-party arising from use of such accommodation.
- Insurers may exclude from policies coverage for any claim resulting from the rental of any accommodation under chapter 64G, and, if so excluded, shall not have a duty to defend or indemnify any claim expressly excluded by a policy.
- Insurers would not be precluded from providing coverage for accommodations if the insurer chooses to do so.
- Any policy or policy form intended to cover operators of accommodations from liabilities shall be placed on file with DOI.

Enhances tax compliance and transparency

To enhance tax compliance and enforcement, the conference committee report includes the following:

- Require operators of STRs to register with DOR and obtain certificate of registration just like all other hotel/motel operators do currently.
- Obligate those individuals or businesses who operate STRs to pay the room occupancy tax in the same manner as operators of hotels/motels bed & breakfast establishments.

- Require operators to pay the excise to DOR at the time provided for filing the return under section 16 of chapter 62C, which is monthly.
- ***Tax Occupancy threshold of not more than 90 consecutive calendar days for stays in a hotel, motel, lodging house or bed and breakfast establishment and not more than 31 consecutive calendar day for stays in a short-term rental accommodation.
- Allows an operator to allow an intermediary/hosting platform to collect rent or facilitate the collection or payment of rent on its behalf through a written agreement on an accommodation subject to the excise.
- Require intermediaries/hosting platforms to:-
 - Collect and remit taxes where the financial transaction of an occupancy or rental of an accommodation is conducted, facilitated or transferred through the use of an intermediary/hosting platform.
 - Maintain records of taxes collected and remitted on behalf of STRs to the commissioner and make those records available to DOR upon request.
 - Confirm that operators of STRs are registered with DOR prior to permitting such operators to listing or offering an accommodation for rent through the use of an intermediary/hosting platform.
 - Notify the operator when the excise taxes have been paid.
 - Notify operators/"hosts" that they shall comply with any and all applicable municipal, state and federal laws, including but not limited to the collection and remittance of required excise taxes.
- Require DOR to lessen administrative burdens and reduce excise tax filing requirements for accommodations offered only seasonally by operators (5 months or less).

Additionally, *to preserve confidentiality with an enhanced level of transparency about individuals and businesses engaging in the accommodations industry*, the conference committee report requires the establishment of a registry under the Executive Office of Housing and Economic Development and includes the following provisions:

- Requires the Executive Office of Housing and Economic Development, in consultation with the Executive Office of Technology Services and Security and Department of Revenue, to establish and maintain a registry for all operators under chapter 64G who have been issued a certificate of registration in accordance with section 67 of chapter 62C. (**Note:** This applies to operators of hotels/motels/bed & breakfast establishments and short-term rentals).
- Requires the Secretary of EOHED to promulgate regulations, including the requirements that a public hearing be held and that a small business impact statement be filed, necessary to (i)

develop and implement a registry that is available and accessible to the public and (ii) supports the short-term rental industry, traditional lodging industry and hosting platforms to operate competitively in the Commonwealth.

- ***Balancing the need to preserve confidentiality with transparency, the registry will only include the street name and the city or town where the short-term rental property is located, and not the street number of the registered property.
- Requires EOHED to consider a host of factors in developing the regulations including existing practices in peer states, data security practices, registry information required to be collected and maintained, the technological feasibility of existing digital systems, etc.
- Requires EOHED to develop/establish standards to protect the confidentiality and security of an operator's personal information and tax information.
- *****Regulations are required to be promulgated no later than September 30, 2019.**

Other items

- Exempt the following from the room occupancy excise:-
 - o Certified alcohol and drug free housing
 - o Tenancies-at-will/month to month leases
 - o Lodging accommodations provided to seasonal employees by employers
 - o Employees of the U.S. Military from the excise on short-term rentals/transient accommodations while traveling on official orders.
 - o Time-share units to avoid double taxation
- Anti-Discrimination - No person (including hosting platforms/operators) shall engage in an unlawful practice under section 4 of chapter 151B
- No New Rights - Nothing in this chapter confers a right to lease, sublease or otherwise offer a residential unit for short-term rental accommodation where such use is prohibited by a homeowner's association agreement or requirements, a rental agreement or any other restriction, covenant, requirement or enforceable agreement.
- Rent Control - For residential units subject to rent control provisions, operators ("hosts") of STRs shall charge no more than the prorated maximum amount allowed.
- Unpaid fine rules ("Green Tickets") shall apply to short-term rental properties as well.
- Requires DOR to annually publish a report on the economic activity of short-term rentals in the Commonwealth rented for occupancy through a hosting platform or intermediary.
- Establishes a commission to study the feasibility and potential for use of lodging units within the hospitality industry as resources to increase the availability of emergency shelter for individuals and families displaced during extreme weather events or other states of emergency declared by the Governor.