

Conversations are Flowing About Short Term Rentals



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With the rising popularity of Airbnb and similar online services that connect those who wish to rent out their homes with those looking for accommodations on a short-term basis, several municipalities as well as the courts and Legislature are examining how to handle the ramifications of these short term rentals.

There is a different set of issues in suburban towns than in large cities or tourist destinations such as Cape Cod. Municipalities are enacting zoning and land use regulations due to growing concerns of changes to the character of their neighborhoods. Such is the case in Lynnfield, when in 2016 a group of men rented a 5,000-square-foot home and threw a party where one of the partygoers was shot to death.

Some condominium associations are now reviewing their governing documents, which may prohibit short term rentals. Unit owners are concerned about guests having access to common areas, club houses, storage facilities, etc., preferring not to have short term renters coming and going in their communities. Recently, a Back Bay condominium association fined a unit owner over \$9,000.00 for renting his unit out through Airbnb in violation of their condominium rules.

The Massachusetts Legislature is also weighing in and has proposed House Bill No. 3454, which would add an excise tax as well as impose new restrictions to the short-term rental of residential homes. Airbnb supports the Senate's plan to assess taxes, stating in an advertisement, which aired on June 5, 2017, that the company is "committed to working with Massachusetts on new, common-sense home sharing rules. We want to collect and pay taxes for our hosts. And we want to protect affordable housing. Together, we can make sure that all of Massachusetts benefits."

The proposed Bill states that the hosts of short-term residential rentals would be classified into the three following categories: residential hosts, professionally managed hosts, and commercial hosts, would be taxed at 4%, 5.7%, and 8% respectively. Different municipalities would be able to raise these taxes should they choose, however, there would be a cap which would limit the increase to 5%, 6% and 10% respectively.

Residential hosts are defined as any person who is the owner of a residential unit who is offering said unit for rent no more than 60 days a year and the unit is the occupant's primary residence. Professionally managed hosts are defined as any person or entity who is offering a residential unit for rent for a minimum of 5 consecutive nights and the unit is managed by someone who is responsible for the upkeep and maintenance of the property and shall be available to respond to any issues that might arise with the renter. A commercial host is defined as anyone who offers his or her residence for tourist or transient use for more than 60 days a year or is offering a unit for rent that is not his or her primary residence.

Municipalities may require both commercial hosts and professionally managed hosts to obtain a proper business license from the local authority and could restrict the number of days a host may rent out a short term residential unit.

Additionally, the Bill calls for the excise tax to be added to the rent charged by the host, paid by the renter, and is to be stated and charged separately. However, no excise would be charged if the total amount of rent is less than \$15.00 per day or its equivalent. There would also be an exemption if the renter is an employee of the United States Military traveling on official military orders that encompass the date of said rental.

It is important for potential hosts to be aware of the existence of any regulation prohibiting renting out their homes, as well as to be aware of the most current taxing procedure for short-term rentals before they consider renting out their homes to guests.