

New State Law Allows Local Regulation of Short-Term Rentals

Just before 2018 ended, Governor Baker signed [An Act Regulating and Insuring Short-Term Rentals](#) into law. The Act capped off years of [public debate](#), [Beacon Hill wrangling](#), and [local regulation](#) of short-term rentals such as those arranged through Airbnb and VRBO. The Act will take effect July 1, 2019.

It Applies to All Short-Term Rentals.

Although many short-term rentals are facilitated by online platforms such as Airbnb and VRBO, the new law covers any short-term rental arranged in advance. Short-term rentals do not include rentals lasting more than 31 continuous days, at-will tenancies, and month-to-month leases.

Short-Term Rentals Will Now be Taxed.

The Act brings short-term rentals under [Chapter 64G, Section 3A](#) of the General Laws, which imposes the room occupancy excise tax on certain B&Bs, hotels, lodging houses, and motels. Short-term rental operators, like operators in other branches of the lodging industry, must register with the Department of Revenue, which will be responsible for developing a publicly accessible registry of short-term rentals.

Those cities and towns which have already accepted Section 3A will be deemed to have accepted the new Section 3A when it enters into effect. Cities and towns which have not yet accepted Section 3A may vote to do so.

Although the local room occupancy excise tax remains limited to 6%, cities and towns may also impose a new “community impact” fee on some short-term rentals. Cities and towns which have already accepted Section 3A may vote to impose a fee of up to 3% on professionally managed short-term rentals, and, if they do so, may also impose the fee on certain other short-term rentals. Cities and towns, however, must dedicate at least 35% of the revenue collected through the community impact fee to affordable housing or local infrastructure projects.

Rentals occupied for fewer than fourteen nights in a year that are properly registered with the state are exempt from taxation.

Municipalities Have New Regulatory Options.

The Act also provides for local regulation of short-term rentals. Municipalities’ regulatory powers under the Act include:

- Regulating the existence or location of operators;
- Requiring local or state licensing or registration as a precondition to operating a short-term rental;
- Requiring short-term rentals to be in compliance with building, electrical, plumbing, mechanical, fire, health, housing, and zoning codes;
- Imposing health and safety inspections of short-term rentals at the operator’s expense; and
- Establishing a civil penalty for violations, including suspending an operator’s right to operate a short-term rental.

The Act also allows cities and towns to publish a registry of short-term rentals within their borders, and will create a commission to study the potential for hospitality-industry lodgings to be used as shelter during emergencies. The Massachusetts Municipal Association will appoint three members to that commission.

The New Law May Be Challenged.

[AirBnB sued Boston](#) over Boston's short-term rental regulations. Boston is not alone; [New York](#), [San Francisco](#), [Miami Beach](#), and [others](#) have found themselves embroiled in litigation over their efforts to regulate short-term rentals. As of yet, there are no legal challenges to the new Act.