

Attached is a copy of [Chapter 337 of the Acts of 2018](#) (the “Act”), the Short-Term Rental Bill signed into law by Governor Baker on December 28, 2018. The law, which takes effect on July 1, 2019, amends [M.G.L. c. 64G](#) (Room Occupancy Excise) to include definitions and provisions applicable to short-term rentals made through internet hosting platforms such as Airbnb.

[Section 1 of the Act] The new law provides that the executive office of housing and economic development, in consultation with the executive office of technology services and security and the department of revenue, shall establish and maintain a registry for all short-term rental operators under M.G.L. c. 64G who file an application and are issued a certificate of registration in accordance with M.G.L. c. 62, § 67. Further, not later than September 30, 2019, “the executive office of housing and economic development shall promulgate regulations, in accordance with section 2 of chapter 30A, that are necessary to: (i) develop and implement a registry that is accessible and available to the public; and (ii) support the competitive operation of the traditional lodging industry, short-term rental industry and hosting platforms to operate competitively in the commonwealth. The regulations shall require that a public hearing be held and that a small business impact statement be filed.”

Aside from provisions specific to communities on Cape Cod, the provisions of primary interest to cities and towns are that:

- [SECTION 6 of the Act] Under the new M.G.L. c. 64G, § 3A and § 3, cities and towns that accept the new statute by majority vote of the city council or town meeting may impose a local excise tax of not more than 6% (Boston being allowed to charge an excise of 6.5%) “upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within that city or town by an operator . . . .” but no excise may be imposed on short-term rentals for fewer than 14 days in a calendar year if the operator has registered with the commissioner of revenue in accordance with M.G.L. c. 62C, §§ 5 and 67. Further, no excise may be charged if the daily rent is \$15.00 or less. The provisions of M.G.L. c. 64G as amended take effect 30 days after the city or town’s vote to accept the statute.
- [SECTION 15 of the Act] A city or town that accepts M.G.L. c. 64G, § 3A before July 1, 2019 shall be deemed to have accepted said M.G.L. c. 64G, § 3A for the purposes of this Chapter 337 of the Acts of 2018.
- [SECTION 7 of the Act] Under M.G.L. c. 64G, §§ 4-5, the excise is to be paid by the occupant, collected by the operator, and stated and charged from the rent and shown on the record of excise at the time the transfer of occupancy is made.
- [SECTION 6 of the Act] Notably, under the new M.G.L. c. 64G, § 3D:
  - 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.

- [SECTION 8 of the Act] The new M.G.L c. 64G, § 14, sets forth those matters which cities and towns may regulate by ordinance or bylaw:
  - i. regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;
  - ii. require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a certificate of registration issued to an operator in accordance with section 67 of chapter 62C in lieu of requiring an operator to obtain a local license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;
  - iii. require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter 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;
  - iv. require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under
  - v. this section shall be charged to and solely paid by the operator under this section; provided further, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;
  - vi. establish a civil penalty for violation of an ordinance or by- law enacted pursuant to this section; provided, however, that a city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance

or bylaw shall notify the commissioner of revenue of the suspension or termination; and

- vii. establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.
  - viii. Notwithstanding any ordinance or by-law adopted by a city or town pursuant to this section, an operator of a short-term rental shall post inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.
  - ix. Nothing in this section shall preclude a city or town from publishing a public registry of all short-term rental accommodations located within that city or town offered for rent by operators who are registered in accordance with section 67 of chapter 62C. A city or town may determine what relevant information shall be listed, including where the accommodation is located.
- [SECTION 9 of the Act] Massachusetts General Laws chapter 175, § 4F has also been added to provide new definitions for “hosting platform”, “operator” and “short-term rental” and to require that short-term rental operators carry liability insurance of not less than \$100,000 unless the rental is offered through a hosting platform that maintains equal or greater coverage, and that operators notify their insurance carriers of their intent to offer insured premises as the location(s) of short-term rentals.

[SECTION 10 of the Act] creates “a commission to study the feasibility and potential for use of lodging units within the hospitality industry, including hotel, motel, bed and breakfast and short-term rentals, 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.” “The commission shall consist of: the director of the Massachusetts emergency management agency or a designee, who shall serve as chair; 2 members appointed by the Massachusetts Lodging Association, Inc.; 3 members appointed by the Massachusetts Municipal Association, Inc., 2 of whom shall have experience in local emergency planning and management and 1 of whom shall have experience in municipal licensure processes; and 3 members appointed by the governor, 1 of whom shall be a representative of the department of revenue, 1 of whom shall be a representative of a hosting platform, as defined in section 1 of chapter 64G of the General Laws, and 1 of whom shall be a representative of a non-profit entity with experience in national-level emergency.

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