



Councilmember Vincent B. Orange, Sr.

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish a Special Enforcement Division within the Department of Consumer and Regulatory Affairs (“DCRA”) whose purpose shall be to oversee the District’s response to widespread or systematic conditions in the District, which threaten residents’ quality of life and demand special attention and to institute requirements for short-term rentals.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Short-term Rental Regulation and Housing Protection Amendment Act of 2015”.

TITLE I. SPECIAL ENFORCEMENT DIVISION ESTABLISHMENT

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Chief Investigator” means the Chief Investigator of the Special Enforcement Division of DCRA.

(2) “Director” means the Director of the Department of Consumer and Regulatory Affairs.

(3) “Division” means the Special Enforcement Division, as established in Sec. 3 of this act.

(4) “Hosting platform” means a marketplace in whatever form or format, which

29 facilitates a short-term rental, through advertising, match-making, or any other means, using any
30 medium of facilitation, and from which the operator of the Hosting Platform derives revenues,
31 including booking fees, or advertising revenues, from providing, or maintaining the marketplace.
32 A marketplace that facilitates transient occupancy, but does not facilitate short-term rentals shall
33 not be considered a Hosting Platform.

34 (5) "Permanent occupant" means a natural person who resides in the same
35 dwelling unit for 30 consecutive days or more, and the dwelling unit in which such person
36 resides shall be referred to as his or her permanent residence.

37 (6) "Short-term rental" means occupancy of a residential dwelling unit by a
38 person other than a permanent occupant for less than 30 consecutive days, where a permanent
39 occupant receives monetary compensation for such occupancy.

40 Sec. 3. Establishment of the Special Enforcement Division.

41 (a) There is established a Special Enforcement Division within the Department of
42 Consumer and Regulatory Affairs ("DCRA") whose purpose shall be to oversee the District's
43 response to widespread or systematic conditions in the District, which threaten residents' quality
44 of life and demand special attention.

45 (b) The Division shall:

46 (1) Enforce this act pursuant to regulations adopted by the Mayor with the advice
47 of the Department;

48 (2) Maintain a registry of individuals offering short-term rentals, and maintaining
49 essential records on licensed short-term rentals, such that:

50 (A) Public information contained in the registry shall be available for
51 download on the Department's website, and

52 (B) Public information shall include the name of the Permanent
53 Occupant who holds the Basic Business License, the physical address of the unit, the number of
54 the Basic Business License, the expiration date of the license, and the names of the Hosting
55 Platform(s) used;

56 (3) Maintain and report relevant statistics on short-term rental activity to the
57 Department of Planning and the Council;

58 (4) Monitor short-term rentals for compliance with the zoning regulations,
59 building codes, health codes, and the provisions of this act, by Hosting Platforms and residents
60 offering units for short-term rental use;

61 (5) Investigate suspected violations of this act by Hosting Platforms and residents
62 offering units for short-term rental use;

63 (6) Refer suspected violations of the fire, health, building, or tax codes, zoning or
64 alcoholic beverage regulations, or other laws in short-term rentals to the appropriate agencies,
65 and

66 (7) Refer violations of this act to the Office of the Attorney General for its action.

67 Sec. 4. Professional staff of the Special Enforcement Division.

68 The Special Enforcement Division within DCRA shall consist of the following
69 professional staff members:

70 (a) The Director shall appoint a Chief Investigator to direct the work of the Division.

71 (b) The Mayor shall provide to the Chief Investigator employees necessary to carry
72 out the powers and duties of the Division. Employees, while so assigned, shall be under the
73 direction and control of the Chief Investigator and may not be reassigned without the consent of
74 the Chief Investigator.

75 (c) For the period through September 1, 2017, the DCRA, the Office of Planning, the
76 Office of Zoning, the Department of Health, the Fire, Emergency Medical Services Department,
77 and any other District agency designated by the Mayor are authorized to provide staff support to
78 the Division as shall be required to accomplish the Division's mission, including operations and
79 administration of the Division before the hiring of the Chief Investigator and other staff.

80 Sec. 5. Enforcement procedures.

81 (a) Upon the filing of a complaint that a person has engaged in a short-term rental in
82 violation of this act, the Division shall take all steps necessary to determine the validity of the
83 complaint.

84 (b) The Division shall independently determine whether a person has offered a
85 short-term rental in violation of this act.

86 (a) If in the course of investigating short-term rental activity the Division discovers
87 suspected violations of the fire, health, building, or tax codes, or the zoning regulations,
88 alcoholic beverages regulations, or other laws, the Division shall report such suspected violation
89 to the relevant agency. Notwithstanding any other provision of this act, the Office of the Chief
90 Financial Officer shall be responsible for investigating suspected violations of D.C. Official
91 Code 47-2001, *et seq.*

92 (c) To determine if there is a violation of this act, the Division shall initiate an
93 investigation of the subject property and/or request any pertinent information from a person
94 offering a short-term rental or from a Hosting Platform, including records required by this act,
95 leases, or other documents.

96 (d) If the Division determines that a person has violated any provision of this act, the

97 Chief Investigator shall issue a cease and desist order and shall refer that person to the Attorney
98 General for criminal investigation and/or civil action.

99 Sec. 6. Budget.

100 The Chief Investigator shall prepare and submit to the Director estimates of the
101 expenditures and appropriations necessary for the operation of the Division for the coming year.

102 Sec. 7. Special Enforcement Fund.

103 (a) Special Enforcement Fund. There is established as a special fund the Special
104 Enforcement Fund ("Fund"), which shall be administered by the Special Enforcement Division,
105 in accordance with subsection (c) of this section.

106 (b) The Fund shall consist of the revenue from the following sources recovered under
107 Section 3 of Title II of this act:

108 (1) Fines; and

109 (2) Awards for enforcement costs, which have been ordered to be reimbursed to
110 the Department in a civil or criminal case brought under this act.

111 (c) The Fund shall be used to enforce the provisions of this act.

112 (d) The money deposited into the Fund, and interest earned, shall not revert to the
113 unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal
114 year, or at any other time. Subject to authorization in an approved budget and financial plan, any
115 funds appropriated in the Fund shall be continually available without regard to fiscal year
116 limitation.

117 Sec. 8. Rules.

118 The Mayor shall issue rules to implement the provisions of this title.

119 Sec. 9. Applicability.

120 (a) This title shall apply upon the date of inclusion of its fiscal effect in an approved
121 budget and financial plan.

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

125 (c) The Budget Director shall cause the notice of the certification to be published in the
126 District of Columbia Register.

127 (d) The date of publication of the notice of the certification shall not affect the
128 applicability of this title.

129 TITLE II. SHORT-TERM RENTAL REGULATION

130 Sec. 10. Requirements for short-term rentals.

131 (a) Licenses required. No person shall offer a dwelling unit as a short-term rental unless
132 he or she maintains a Basic Business License with a Housing: Transient endorsement for that
133 unit.

134 (b) Requirements for Home Occupation Permit. The Zoning Commission shall
135 promulgate regulations pertaining to Home Occupation Permits. In addition, a Home Occupation
136 Permit for a Bed and Breakfast shall not be granted unless the following requirements are met:

137 (1) Inspections required. No person shall receive a Home Occupation Permit for a
138 Bed and Breakfast at a dwelling unit unless the unit passes inspections, which demonstrate that:

139 (A) The unit and any common spaces in the dwelling meet health, fire, and
140 building code standards for the type of dwelling in which the unit is located,

141 (B) The unit is in compliance with the Americans with Disabilities Act of
142 1990 (42 U.S.C. § 12101 *et seq.*), and

143 (C) The unit meets any other requirements, which DCRA shall deem
144 necessary to ensure the health and safety of visitors during short-term rentals.

145 (2) Permanent residence only. Persons applying for a Home Occupation Permit for a
146 Bed and Breakfast shall meet the following requirements:

147 (A) He or she shall be a natural person who resides in the District of Columbia
148 and shall supply evidence of the same,

149 (B) He or she shall receive only one Home Occupation Permit for a Bed and
150 Breakfast, and only for his or her permanent residence, and

151 (C) He or she shall provide one form of proof of identity and two forms of
152 evidence that the unit is his or her primary residence.

153 (3) Notification required. In order to receive a Home Occupation Permit for a Bed
154 and Breakfast, a person shall:

155 (A) Prepare a notification letter that describes the nature of the operation, the
156 number of bedrooms that will be rented to overnight guests; and includes the name of the person
157 applying for the Home Occupation Permit and information on how to contact the resident by
158 phone and email; and

159 (B) Demonstrate to the Office of the Zoning Administrator that he or she has
160 mailed or delivered the notification letter to the following parties:

161 (i) For units located in dwellings other than multiple
162 dwellings: the Advisory Neighborhood Commissioner for the Single Member District in which
163 the unit is located, and all residents and owners of property abutting or directly across the street
164 from the accessory short-term rental. If the permanent resident is not the owner of the unit,
165 notification shall also be sent to the owner, or

166 (ii) For units located in multiple dwellings: the Advisory
167 Neighborhood Commissioner for the Single Member District in which the unit is located, all
168 residents and owners of abutting units, the unit across the hall from the unit, and the units above
169 and below the unit. If the permanent resident is not the owner of the unit, notification shall also
170 be sent to the owner.

171 (4) The Zoning Administrator shall not grant a Home Occupation Permit for a Bed
172 and Breakfast if the residential unit is subject to any outstanding building, electrical, plumbing,
173 mechanical, fire, health, housing, police, or planning enforcement.

174 (c) Additional requirements for persons offering units for transient occupancy. Persons
175 offering units for transient occupancy, including permanent residents offering units as short-term
176 rentals, shall comply with the following additional requirements:

177 (1) No person shall offer a unit located in the District of Columbia for transient
178 occupancy using any Hosting Platform, unless such person clearly displays the number of the
179 Basic Business License for the unit, and clearly denotes that the number is the unit's District of
180 Columbia Basic Business License number, in each advertising medium of the Hosting Platform
181 where the unit is advertised.

182 (A) If a person's Basic Business License for transient occupancy at a unit at
183 any time expires, becomes suspended, or otherwise invalid, that person shall remove or
184 deactivate the listing from each Hosting Platform within 3 business days of receiving notification
185 of the license's status.

186 (2) Any person offering a unit for transient occupancy using any Hosting Platform
187 shall inform the Department of the Hosting Platforms used for each physical address being
188 offered for transient occupancy use.

189 (3) No person shall offer a short-term rental, unless at least one of the unit's primary
190 residents lives on site in the dwelling unit throughout the visitor's stay.

191 (4) No person shall sell food to a transient guest while the guest uses the property
192 unless such person has obtained food safety permits.

193 (5) No person shall sell or provide alcoholic beverages to any transient guest while
194 the guest uses the property unless such person obtains an On-premises Retailer Class C license
195 from the Alcoholic Beverage Regulation Administration.

196 (6) No person shall charge rent for a short-term rental, which exceeds the allowable
197 rent pursuant to the Rental Housing Act of 1985 as amended (DC Code § 42-3501.01 *et seq.*), the
198 Zoning Regulations (DCMR Title 11), or other provision of law.

199 (d) Additional requirements for Hosting Platforms. Hosting Platforms shall comply with
200 the following:

201 (1) No Hosting Platform shall list a unit located within the District Columbia without
202 prominently displaying a valid Basic Business License for that unit on any medium the Hosting
203 Platform uses to advertise the unit. Hosting Platforms shall not advertise units, which do not
204 have a valid Basic Business License, and shall comply by:

205 (A) Confirming at the time of initial listing that the Basic Business License
206 for transient occupancy for a unit is valid, before posting the listing on any advertising medium
207 of the Hosting Platform, and

208 (B) If the Department or other agency of the District government informs the
209 Hosting Platform that a unit's license is no longer valid, the Hosting Platform shall remove or
210 deactivate all listings for that unit within 3 business days, so that such unit cannot be rented or
211 advertised using the Hosting Platform.

212 (2) A Hosting Platform shall provide the relevant regulations and requirements
213 for short-term rentals to any person who seeks to offer a short-term rental located in the District
214 of Columbia using the Hosting Platform.

215 (e) Records required. Residents offering short-term rentals and Hosting Platforms shall
216 maintain and report records as follows:

217 (1) Upon request, each Hosting Platform advertising listings of short-term rental
218 units located in the District of Columbia shall provide the Department with the following
219 information for each unit:

220 (A) The physical address,

221 (B) The name of the person who registered the unit, and

222 (C) The nights during a short-term rental occurred at the unit, the number
223 of persons who were scheduled to stay at the unit for each night, and the room rate charged for
224 each visit.

225 (2) Any person who offers a short-term rental unit shall retain and make available
226 to the Department or to law enforcement officials records to demonstrate compliance with this
227 act, including records demonstrating primary residency, the names of each guest on each night,
228 the rate charged for each short-term rental on each night, and the Hosting Platform used to book
229 the short-term rental, if any.

230 (3) Hosting Platforms shall retain records for a period of at least ten (10) years;
231 persons providing units for short-term rental use shall retain records for a period of at least two
232 (2) years.

233 (4) Information sent to the Department pursuant to this section shall be

234 considered confidential, and shall not be subject to disclosure under the D.C. Freedom of
235 Information Act. The Office of the Chief Financial Officer shall inspect such information upon
236 request.

237 (f) Nothing in this act shall be construed as permitting any person to obtain a Home
238 Occupancy Permit or offer a short-term rental in a unit located in a multiple dwelling, where
239 prohibited by the zoning regulations or any other provision of law.

240 Sec. 11. Enforcement.

241 (a) Violations. After 120 calendar days from the effective date of this act, it shall be a
242 violation for any person to offer a short-term rental at a dwelling unit located in the District of
243 Columbia, which does not comply with the requirements of this act; or for any Hosting Platform
244 to fail to comply with the requirements of this act. For example, it shall be a violation for:

245 (1) Any person to provide a short-term rental at a dwelling unit located in the District
246 of Columbia unless he or she maintains a valid Basic Business License with a

247 Housing: transient endorsement for the physical location of the dwelling unit,

248 (2) Any person to provide a short-term rental, without a permanent occupant of that
249 dwelling living on-site throughout the visitor's stay,

250 (3) Any person to offer a short-term rental on a Hosting Platform without clearly
251 indicating the number of the Basic Business License for the location and denoting
252 it has such,

253 (4) Any operator or owner of a Hosting Platform to allow a listing or advertisement
254 for a short-term rental located in the District of Columbia to be advertised using
255 the Hosting Platform, without prominently displaying the number of the Basic

256 Business License for the location and denoting it as such wherever the Hosting
257 Platform advertises the rental,

258 (5) For any person to fail to submit any records required by law to the District of
259 Columbia, or to make any false or fraudulent statement regarding a short-term
260 rental in the District, or for any person to fail to remit any tax required by the D.C.
261 Official § 47-101, *et seq.*

262 (b) Remedies.

263 (1) Civil action. The following parties shall seek injunctive or other relief to prevent
264 or remedy violations of this act. The prevailing party in such an action shall be entitled to recover
265 reasonable costs, attorney's fees, and statutory damages not to exceed \$3,000.

266 (A) The Attorney General of the District of Columbia,

267 (B) An affordable housing organization incorporated in the District of
268 Columbia,

269 (C) A neighborhood association incorporated in the District of Columbia
270 whose borders include the property, or

271 (D) Any neighboring property owner or occupant who would be specially
272 damaged by any such violation.

273 (2) Criminal action. Any person who violates any provision of this act shall be guilty
274 of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a
275 fine of not more than \$500 for each unit offered for transient occupancy in violation of this act,
276 or by imprisonment in a District correctional facility for a period not exceeding 6 months, or
277 both.

278 (3) Additional remedies. Any person convicted of violating any provision of this act

279 in a criminal case or found to be in violation of this act in a civil case shall remit all illegally
280 obtained revenue to the District so that it shall be deposited in the Housing Production Trust
281 Fund, pursuant to the Housing Production Trust Fund Act of 1988, effective Mar. 16, 1989 (D.C.
282 Law 7-202, D.C. Official Code § 42-2802 (c)). If the case is brought by a law enforcement
283 agency, such person shall be ordered to reimburse the Department and other participating law
284 enforcement agencies their full enforcement costs.

285 Sec. 12. Condominium conversions prohibited.

286 (a) Notwithstanding any other provision of law, no person shall convert and the Mayor
287 shall not permit the conversion of any condominium unit within a residential building into a
288 hotel, motel, inn, or other transient residential occupancy unit or accommodation.

289 (b) Sub-section (a) shall not apply to a condominium unit in a residential building that
290 holds a valid Basic Business License for transient accommodation on November 1, 2015. These
291 licensed condominium unit shall be permitted to continue that basic business use, provided that
292 the floor area of the unit or the number of rooms within the unit dedicated to transient occupancy
293 shall not increase.

294 (c) Nothing in this section shall prevent a person from obtaining a Home Occupation
295 Permit for a residential condominium unit.

296 TITLE III. CONFORMING AMENDMENTS

297 (a) Amend D.C. Code § 42-2802 (c) by inserting a new sub-paragraph:

298 “(18) Payments of illegally obtained revenue from short-term rentals, pursuant to § 212 of the
299 Short-term Rental Regulation and Housing Protection Act of 2015.”

300 TITLE IV. GENERAL PROVISIONS

301 Sec. 15. Fiscal impact statement.

302 The Council adopts the fiscal impact statement in the committee report as the fiscal
303 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
304 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1 206.02(c)(3)).

305 Sec. 16. Effective date.

306 This act shall take effect following approval by the Mayor (or in the event of veto by the
307 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
308 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
309 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
310 Columbia Register.