


Councilmember Kenyan R. McDuffie

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require the Department of Consumer and Regulatory Affairs to inspect short-term rentals for violations of health and safety, to establish duties and enforcement powers for the Department, to require short-term rental hosts to obtain a basic business license, to create a new license category for short-term rentals, to establish requirements governing the use of short-term rentals, to permit limited vacation rentals, to require short-term rental hosts and hosting platforms to maintain records, and to establish enforcement procedures for short-term rental requirements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Short-term Rental Regulation and Affordable Housing Protection Act of 2017”.

TITLE I. SPECIAL ENFORCEMENT DEPARTMENT ESTABLISHMENT

Sec. 101. Definitions.

For the purposes of this act, the term:

(1) “Booking service” means a reservation service provided by a person who facilitates a short-term rental transaction between a host and a prospective transient user for which the person collects fees in connection with reservation or payment services provided for the short-term rental transaction.

35 (2) "Computer service" has the meaning given in section 230(f)(2) of the
36 Communications Act of 1934, approved February 8, 1996 (110 Stat. 139; 47 U.S.C. §
37 230(f)(2)).

38 (3) "Department" means the Department of Consumer and Regulatory Affairs.

39 (4) "Director" means the Director of the Department of Consumer and
40 Regulatory Affairs.

41 (5) "Dwelling unit" means one or more habitable rooms comprising complete
42 independent living facilities for one or more persons, including within those rooms permanent
43 provisions for living, sleeping, eating, cooking, and sanitation that is intended for a single
44 household. The term "dwelling unit" does not include an accessory dwelling located in the
45 basement of a single-family dwelling.

46 (6) "Host" means a proprietor of a dwelling unit who provides all or part of a
47 dwelling unit for short-term accommodation use.

48 (7) "Hosting platform" means a person who facilitates a short-term rental by
49 providing booking services through which a host may provide a dwelling unit for short-term
50 rental use. The term "hosting platform" does not include a person who facilitates transient
51 occupancy but does not facilitate short-term rentals.

52 (8) "Permanent occupant" means an individual who resides in the same dwelling
53 unit for 90 consecutive days or more.

54 (9) "Permanent residence" is a dwelling unit in which a resident resides for 90
55 consecutive days or more.

56 (10) "Proprietor" means the owner, lessee, permanent occupant, or any other
57 person who exercises any legal or physical control over a dwelling unit, or any agent acting on a
58 proprietor's behalf.

59 (11) "Resident" means an individual who is domiciled in the District and
60 maintains a place of abode in the District for 183 or more days during the year.

61 (12) "Short-term rental" means occupancy of a residential dwelling unit by a
62 short-term rental guest other than a permanent occupant for fewer than 30 consecutive days,
63 where any proprietor receives monetary compensation for such occupancy. A short-term rental
64 does not include a hotel or an inn.

65 (13) "Short-term rental guest" means a transient who occupies a short-term rental.

66 (14) "Transient" means any person who occupies, or has the right to occupy, any
67 room or rooms, lodgings, or accommodations for a period of 30 days or less during any one
68 continuous stay.

69 (15) "Vacation rental" means a short-term rental during which there is at least one
70 night on which no permanent occupant of the dwelling unit occupies the unit overnight.

71 Sec. 102. Department short-term rental enforcement; purpose, duties.

72 (a) The Department shall inspect short-term rentals for health and safety violations and
73 ensure compliance with business licensing, zoning, housing, health, safety, and sanitation
74 standards.

75 (b) The Department shall:

76 (1) Enforce violations of the Rental Housing Act of 1985, effective July 17, 1985
77 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), the Zoning Regulations of 2016,

78 effective September 6, 2016, Title 11 of the District of Columbia Municipal Regulations; and the
79 general license laws as set forth in D.C. Official Code § 47-2851.01 *et seq.*;

80 (2) Maintain records on licensed short-term rentals;

81 (3) Maintain statistics on short-term rental activity and provide reports annually at
82 the request of the Mayor or the Council;

83 (4) Monitor short-term rentals for compliance with the zoning regulations,
84 building codes, health codes, housing codes, and rules issued pursuant to section 104;

85 (5) Investigate suspected violations of this act by hosting platforms and hosts;

86 (6) Issue administrative penalties, orders, and subpoenas to enforce the
87 provisions of this act;

88 (7) Refer suspected regulatory violations of fire, health, building, tax, zoning, and
89 alcoholic beverages to the appropriate agency.

90 (8) Make business licenses continuously available to hosting platforms and
91 computer services pursuant to section 201(d) of this act;

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

93 Sec. 103. Enforcement procedures.

94 (a)(1) The Department shall monitor and review hosting platforms, and produce an
95 inventory of potentially non-compliant listings discovered during the review.

96 (2) Upon discovery of potentially non-compliant listings, the Department shall
97 immediately provide notice to the relevant hosting platforms. The Department shall investigate
98 non-compliant listings and take enforcement action.

99 (b) Upon the filing of a complaint that a person has engaged in a short-term rental
100 in violation of this act, the Department shall:

101 (1) Initiate an investigation of the subject property and request any pertinent
102 information from a person offering a short-term rental, including records required by this act,
103 leases, or other documents, and may obtain records from hosting platforms or other computer
104 services as provided in subsection (c) of this section;

105 (2) Determine whether a person has offered a short-term rental in violation of this
106 act; and

107 (3)(A) Report suspected regulatory violations of fire, health, building, tax,
108 zoning, and alcoholic beverages to the appropriate agency.

109 (B) Report suspected regulatory violations or any other provisions of law
110 not enumerated in this paragraph.

111 (c)(1) The Director is authorized to issue and serve administrative subpoenas to
112 determine whether hosts, hosting platforms, or other computer services have complied with this
113 act. The Director may request the information described in subsection (f)(2) of section 201 of
114 this act.

115 (2) The Director shall issue and serve subpoenas to hosting platforms or other
116 computer services within a reasonable time not to exceed 30 days of discovering potential
117 violations. Hosting platforms and other computer services shall have the right to appeal to the
118 Office of Administrative Hearings if an eligible individual does not agree with one or more of
119 the determinations made by the Director pursuant to this section.

120 (d) If the Director determines that a person has violated any provision of this act, the
121 Director shall issue the appropriate penalties and orders. If a person has violated any provision
122 of this act after having received a cease and desist order, the Director shall continue to issue the

123 appropriate penalties and orders, and provide findings to the Office of the Attorney General for
124 its action.

125 Sec. 104. Rules.

126 (a)(1) The Mayor, pursuant to the District of Columbia Administrative Procedure Act,
127 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*) shall establish
128 rules:

129 (2) Concerning advertisements with expired, suspended, invalid, or deactivated
130 licenses on hosting platform and computer services;

131 (3) For hosting platforms and computer services to publish the basic business
132 license number in an advertisements for a transient accommodations;

133 (4) Specifying the records and statistics the Department is required to maintain
134 pursuant to section 102(b) of this act;

135 (5) Specifying the records hosting platforms and computer services are required to
136 retain and make available to the Department or to law enforcement officials to demonstrate
137 compliance with this act;

138 (6) Detailing the permitted use of administrative subpoenas;

139 (7) Specifying the appeal process as provided in section 103(c)(2); and

140 (8) Necessary to implement the provisions of this act.

141 **TITLE II. SHORT-TERM RENTALS**

142 **Sec. 201. Requirements for short-term rentals.**

143 (a) No person shall advertise or host a short-term rental unless the person maintains a
144 basic business license with a housing: short-term rental endorsement for that unit, as provided in
145 D.C. Official Code § 47-2851.03.

146 (b) No person shall receive a basic business license with a housing: short-term
147 endorsement unless the endorsement applies to the person's permanent residence.

148 (c) Persons applying for a basic business license with a housing: short-term rental
149 endorsement shall maintain District residency and provide proof of residency to the Department.

150 (c)(1) No person shall advertise or host a transient accommodation in the District using
151 any hosting platform, or advertise any short-term rental in the District using any computer
152 service, unless the person includes in the advertisement the number of the basic business license
153 for the accommodation as required by subsection (a) of this section, and clearly denotes that the
154 number is the accommodation's basic business license number, in each medium where the
155 accommodation is advertised using the computer service; provided, that a host shall not be held
156 liable for the failure of a hosting platform or other person providing a computer service to
157 display a basic business license number.

158 (2) Except as provided in subsection (e) of this section, no person shall advertise
159 or host a vacation-rental.

160 (d)(1) Any hosting platform advertising a transient accommodation located within the
161 District shall solicit from the host a basic business license number, which it shall publish and
162 display prominently on any listing of the accommodation. No person who provides any computer
163 service which advertises short-term rentals in the District shall prevent a host from including in
164 an advertisement for a short-term rental his or her basic business license number; provided, that
165 such person may prevent advertisement of a short-term rental, the basic business license number
166 of which the person is unable to verify.

167 (2) No hosting platform shall book a transient accommodation without having
168 verified the following:

169 (A) The basic business license of the transient accommodation is

170 plausibly lawful based on District records;

171 (B) The basic business license number matches the number of an existing
172 basic business license with a housing: short-term rental or housing: transient accommodations
173 endorsement;

174 (C) The address of the rental or accommodation which was provided to the
175 hosting platform by the host is equivalent to the address listed for the basic business license; and

176 (D) The basic business license is not marked as expired or otherwise
177 invalid.

178 (3) A hosting platform which has verified the validity of a basic business license
179 number for a transient accommodation is not required to re-verify the validity of the number for
180 the same transient accommodation unless the District has provided notice that the
181 accommodation cannot lawfully be provided, or if the hosting platform has ceased to offer the
182 transient accommodation for a period of at least 12 months since the number was last verified.

183 (4) If the Department or other agency of the District government provides notice
184 to a hosting platform that a transient accommodation cannot lawfully be provided, the hosting
185 platform shall not book the transient accommodation until it receives confirmation from the
186 District that the transient accommodation can lawfully be provided.

187 (5) On the fifth day of every month, a hosting platform that has booked transient
188 accommodations in the District shall submit to the Department a signed affidavit that verifies
189 that the hosting platform has complied with this subsection in the immediately preceding month.

190 (6) A hosting platform shall not book a short-term rental as a vacation rental for
191 more than 15 nights cumulatively in a calendar year. For the purposes of complying with this
192 paragraph, a hosting platform may assume that an accommodation is a short-term rental if and

193 only if the basic business license number provided by the host has a housing: short-term rental
194 endorsement.

195 (e)(1) A resident may offer a short-term rental as a vacation rental for a maximum of 15
196 nights cumulatively in any calendar year; provided, that such use is permissible under the Zoning
197 Regulations of 2016, effective September 6, 2016, Title 11 of the District of Columbia Municipal
198 Regulations.

199 (2) It shall constitute prima facie evidence that a short-term rental is a vacation
200 rental if any part of an advertisement for the rental claims or suggests that guests will have use of
201 the entire unit during their stay.

202 (f)(1) Short-term rental hosts shall retain records for a period of at least 2 years.
203 Information sent to the Department pursuant to this subsection shall be considered confidential,
204 and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective
205 March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*); provided, that the Office of
206 the Chief Financial Officer may inspect the information upon request.

207 (2) Hosting platforms shall maintain records of transient accommodations, and
208 retain the records for a period of at least 3 years, including:

209 (A) The name of the proprietor who provided the accommodation;

210 (B) The physical address of the accommodation;

211 (C) The basic business license number of the accommodation,

212 (D) The dates for which the transient user procured use of the

213 accommodation using the booking service provided by the hosting platform;

214 (E) Whether the accommodation was booked as a vacation rental; and

215 (F) The room rate charged for each short-term rental.

216 Sec. 202. Enforcement.

217 (a) Beginning 120 calendar days after the effective date of this act, it shall be a violation
218 for any person to advertise or host a short-term rental in the District that does not comply with
219 the requirements of this act or for any hosting platform to fail to comply with the requirements of
220 this act.

221 (b)(1) Any person, except a hosting platform, found to have violated any provision of
222 section 201 shall be liable for a civil penalty of not more than:

223 (A) \$1,000 for the first violation;

224 (B) \$4,000 for a second violation: and

225 (C) \$7,000 for a third and subsequent violations.

226 (2) Upon the first violation, the Director shall order the person to cease and desist
227 from activity which violates this act.

228 (3) Any hosting platform found to have violated any provision of section 201
229 shall be liable to a civil penalty of \$1,000 for each booking transaction made in violation of this
230 act. Upon the first violation, the Director shall order the hosting platform to cease and desist
231 from activity that violates this act.

232 (c) The following parties may seek injunctive or other relief to prevent or remedy
233 violations of this act and, upon prevailing, be entitled to recover statutory damages not to exceed
234 \$3,000, plus reasonable costs and attorney's fees:

235 (1) The Attorney General of the District of Columbia; or

236 (2) Any neighboring property owner or occupant who would be specially
237 damaged by a violation.

238 (d)(1) The Department shall revoke the basic business license with a housing: short-term
239 rental endorsement of any person found to be in violation of this act in a civil case for a period of
240 no less three months, but not to exceed three years.

241 (2) Fifty percent of the fees and penalties collected under this section shall be
242 deposited in the General Fund, and the remainder shall be deposited in the Housing Production
243 Trust Fund, pursuant to section 3(c) of the Housing Production Trust Fund Act of 1988, effective
244 Mar. 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802(c)).

245 Sec. 203. Residential housing conversions prohibited.

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

249 (b) Subsection (a) of this section shall not apply to a residential housing unit in a
250 residential building that holds a valid basic business license for transient accommodation on June
251 1, 2017. These licensed units shall be permitted to continue that basic business use; provided,
252 that the floor area of the unit or the number of rooms within the unit dedicated to transient
253 occupancy shall not increase.

254 (c) Nothing in this section shall prevent a person from obtaining a basic business
255 license for housing: short-term rental in a residential dwelling to operate a short-term rental in
256 conformity with this act.

257 TITLE III. CONFORMING AMENDMENTS

258 Sec. 301. Section 3(c) of the Housing Production Trust Fund Act of 1988, effective
259 March 16, 1989 (D.C. Law 7-202; D.C. Code Official § 42-2802(c)) is amended by adding a new
260 paragraph (18) to read as follows:

261 “(18) Payments of illegally obtained revenue from short-term rentals, pursuant to Title II
262 of the Short-term Rental Regulation and Affordable Housing Protection Act of 2017, as
263 introduced on January 31, 2017 (Bill 22-___).”.

264 Sec. 302. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as
265 follows:

266 (a) Section 47-2828 is amended by adding a new subsection (c-1) to read as follows:

267 “(c-1) “Licenses for short-term rentals shall be issued under the basic business license
268 system as a Housing: Short-term rental endorsement on a basic business license.”.

269 (b) Section 47-2851.03(6) is amended as follows:

270 (1) Subparagraph (A) is amended by striking the word “and”.

271 (2) Subparagraph (B) is amended by adding the word “and at the end.

272 (3) A new subparagraph (C) is added to read as follows:

273 “(C) Housing: Short-term rental.”.

274 TITLE IV. GENERAL PROVISIONS

275 Sec. 401. Fiscal impact statement.

276 The Council adopts the fiscal impact statement in the committee report as the fiscal
277 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
278 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

279 Sec. 402. Effective date.

280 This act shall take effect following approval by the Mayor (or in the event of veto by the
281 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
282 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

283 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
284 Columbia Register.