



Legislation Text

File #: 18-0189, **Version:** 0

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: Councilmember Costello, President Young

A Bill Entitled

An Ordinance concerning

Short-Term Residential Rentals - Regulation and Taxation

For the purpose of extending the hotel tax to certain transactions facilitated by hosting platforms; requiring the licensing of short-term residential rental units; defining certain terms; providing for the denial, suspension, or revocation of short-term residential rental licenses under certain circumstances; providing for judicial and appellate review of administrative decisions relating to the licensing of short-term residential rental units; imposing certain penalties; clarifying and conforming related provisions; providing for a special effective date; and generally relating to the regulation and taxation of short-term residential rentals.

By adding

Article 15 - Licensing and Regulation
Sections 48-1 through 48-26, to be under the new subtitle,
“Subtitle 48. Short-Term Residential Rentals”
Baltimore City Code
(Edition 2000)

By repealing and reordaining with amendments

Article 28 - Taxes
Sections 21-1, 21-2, and 21-4(a)
Baltimore City Code
(Edition 2000)

By adding

Article 1 - Mayor, City Council, and Municipal Agencies
Section(s) 40-14(e)(2)(Subtitle 48)
Baltimore City Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore
City read as follows:

Baltimore City Code

Article 15 . Licensing and Regulation
Subtitle 48. Short-Term Residential Rentals
Part 1. Definitions; General Provisions

§ 48-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Booking transaction.*

“Booking transaction” means a reservation transaction between a host and a prospective transient guest for a short-term residential rental.

(c) *Dwelling unit.*

“Dwelling unit” has the meaning stated in § 202.2 of the Baltimore City Building Code.

(d) *Finance Department; Department.*

“Finance Department” or “Department” means the Baltimore City Department of Finance.

(e) *Finance Director; Director.*

“Finance Director” or “Director” means the Director of the Baltimore City Department of Finance or the Director’s designee.

(f) *Host.*

“Host” means the owner of a dwelling unit who provides or offers to provide all or part of the dwelling unit for short-term residential rental use in exchange for a fee.

(g) *Hosted rental.*

“Hosted rental” means a short-term residential rental where the host also occupies the dwelling unit during the transient guest’s stay.

(h) *Hosting platform.*

“Hosting platform” means an internet-based entity that:

- (1) facilitates reservations of short-term residential rentals;
- (2) serves as a conduit of communication between hosts and transient guests; or
- (3) otherwise facilitates booking transactions for short-term residential rentals.

(i) *Permanent residence.*

(1) “Permanent residence” means a dwelling unit:

- (i) in which the owner resides for an aggregate of at least 180 days annually; and
- (ii) that is the owner’s usual place of return for housing, as documented by at least one of the following:
 - (A) driver’s license;
 - (B) voter registration; or
 - (C) official designation of the dwelling unit as the owner’s principle residence in accordance with the criteria governing the State Homestead Tax Credit.

(2) For purposes of this subtitle, a host may have only 1 “permanent residence”.

(j) *Short-term residential rental.*

“Short-term residential rental” means the use, facilitated in whole or in part by a hosting platform, of all or any part of a dwelling unit to provide accommodations to transient guests for sleeping or lodging purposes in exchange for a fee.

(k) *Transient guest.*

(1) *Ancillary definition of “transient”.*

In this subsection, “transient” means any person who occupies, or has been given the right to occupy, sleeping or lodging accommodations for a period of fewer than 90 consecutive days.

(2) *“Transient guest” defined.*

“Transient guest” means any transient who uses a hosting platform to facilitate a short-term residential rental.

(l) *Unhosted rental.*

“Unhosted rental” means a short-term residential rental where the host does not occupy the dwelling unit during the transient guest’s stay.

§ 48-2. *Mandatory, prohibitory, and permissive terms.*

(a) *Mandatory terms.*

“Must” and “shall” are each mandatory terms used to express a requirement or to impose a duty.

(b) *Prohibitory terms.*

“May not” and “no ... may” are each mandatory negative terms used to establish a prohibition.

(c) *Permissive terms.*

“May” is permissive.

§ 48-3. Rules and Regulations.

(a) *In general.*

The Finance Director must adopt rules and regulations to carry out this subtitle.

(b) *Filing with Legislative Reference.*

A copy of all rules and regulations adopted under this subtitle must be filed with the Department of Legislative Reference before they take effect.

§§ 48-4 to 48-5. {Reserved}

Part 2. Licensing

§ 48-6. License required.

(a) *In general.*

No person may operate a short-term residential rental without a currently effective license to do so from the Finance Director.

(b) *Application for license..*

The application for an initial or renewal short-term residential rental license must be made in the form and contain the information and documentation that the Finance Director requires.

§ 48-7. Licensing prerequisites.

(a) *Limitations.*

A short-term residential rental license may be issued only:

- (1) to the owner of the dwelling unit to be used for short-term residential rentals; and
- (2) for a maximum of 2 dwelling units, so long as 1 of the dwelling units is the owner’s permanent residence.

(b) *Additional requirements.*

- (1) *In general.*

All applicants for an initial or renewal license must meet the following requirements.

(2) *Proof of owner's permanent residence.*

The owner must provide proof that the dwelling unit (or, if 2 dwelling units are applied for, 1 of those units) is the owner's permanent residence.

(3) *non-owner-occupied dwellings.*

For any dwelling unit that is a "non-owner-occupied dwelling unit" (as defined in City Code Article 13, Subtitle 4 {"Registration of Non-Owner-Occupied Dwellings ..."}):

- (i) the dwelling unit must be currently registered, as required by that Subtitle 4;
- (ii) all registration fees and all related interest required by that Subtitle 4 must have been paid; and
- (iii) all other requirements of Article 13 applicable to non-owner-occupied dwelling units must be complied with.

(4) *Sales and use tax.*

The owner must be registered with the State Comptroller for the collection of the State's sales and use tax.

§ 48-8. License term and renewal.

(a) *Term.*

Each short-term residential rental license expires annually on the anniversary of its issuance.

(b) *Renewal.*

- (1) Before a license expires, the host may apply to renew it for an additional 1-year term.
- (2) The renewal application must be submitted to the Finance Department, with the applicable annual fee, at least 30 days before the current license expires.

§ 48-9. License fee.

The annual license fee for a short-term residential rental license is \$100 per dwelling unit, *subject to adjustment in accordance with the City Fee Policy.*

§§ 48-10 to 48-14. {Reserved}

Part 3. Operational Requirements

§ 48-15. Hosts.

(a) *In general.*

All hosts must comply the following requirements.

(b) *Number of rental days.*

(1) *Unhosted rentals.*

A dwelling unit may be used for unhosted rentals no more than 60 days in any license year.

(2) *Hosted rentals.*

A dwelling unit may be used for hosted rentals an unlimited number of days in a license year.

(c) *Homeowners' Association, etc., regulations.*

The use of a dwelling unit for short-term residential rentals must comply with all applicable regulations of any governing homeowners' association or condominium regime.

(d) *City Codes compliance.*

The dwelling unit must be maintained in compliance with the City Building, Fire, and Related Codes Article, the City Health Article, and the Zoning Code of Baltimore City.

(e) *Record of rentals and guests.*

The host must:

- (1) make a record, in the form and containing the information required by the rules and regulations adopted under this subtitle, of all of the host's short-term residential rentals and their respective transient guests;
- (2) maintain that record for at least the period of years required by the rules and regulations adopted under this subtitle; and
- (3) on request, make that record available for inspection by the Finance Department.

(f) *Posting emergency contact.*

- (1) During the term of any unhosted rental, the host must prominently display, in an area of the dwelling unit that is readily accessible to the transient guests, emergency contact information for a representative of the host.
- (2) This representative must reside within 15 miles of the dwelling unit and be accessible for the entirety term of the unhosted rental.

(g) *Posting notice of licensure.*

At all times during the term of a short-term residential rental, the host must prominently display a sign, in the form and manner required by the rules and regulations adopted under this subtitle, stating that the facility is licensed for short-term residential rentals.

(h) *Displaying license number on hosting platform.*

The host must include his or her license number in any advertisement or listing of the dwelling unit on a hosting platform.

§ 48-16. Hosting platforms.

(a) *In general.*

Hosting platforms must comply the following requirements.

(b) *Verification of host's bona fides.*

- (1) No hosting platform may advertise, list, or otherwise facilitate booking transactions for a short-term residential rental in the City without having verified with the Finance Department that the license of the host is valid and that the address of the dwelling unit matches the address listed for the license.
- (2) A hosting platform that has verified the validity of a license for a short-term residential rental is not required to re-verify the validity of the license, unless:
 - (i) the Finance Department has notified the hosting platform that the dwelling unit cannot lawfully be used for a short-term residential rental; or
 - (ii) the host has ceased to offer short-term residential rentals through that hosting platform for a period of 12 months or more since the license was last verified.
- (3) If the Finance Department notifies a hosting platform that a dwelling unit cannot lawfully be used for a short-term residential rental, the hosting platform may not advertise, list, or otherwise facilitate booking transactions for that dwelling until it receives subsequent confirmation from the Department that the short-term residential rental can lawfully be provided.

(c) *Rental records.*

(1) *In general.*

A hosting platform must:

- (i) make a record of all short-term residential rentals in Baltimore City facilitated by that platform;
- (ii) maintain that record for at least the period of years required by the rules and regulations adopted under this subtitle; and
- (iii) on request, make that record available for inspection by the Finance Department.

(2) *Contents.*

These records must include, for each short-term residential rental:

- (i) the name and license number of the host who provided the short-term residential rental;
- (ii) the street address of the short-term residential rental;
- (iii) the date of the booking transaction;
- (iv) the name and address of the transient guest who booked the short-term residential rental;

(v) the start and end dates of the short-term residential rental;

(vi) the rent and other fees charged by the host and by the hosting platform for providing or facilitating the short-term residential rental and related services; and

(vii) any other information required by the rules and regulations adopted under this subtitle.

(d) *Display of license numbers.*

In any advertisement or listing of a dwelling unit available for short-term residential rentals in Baltimore City, hosting platforms must include the license numbers of the hosts offering those rentals.

§§ 48-17 to 48-20 {Reserved}

Part 4. Administrative Sanctions

§ 48-21. Denial, suspension, or revocation of license - In general.

Subject to the hearing provisions of § 48-22 of this subtitle, the Finance Director may deny, suspend, or revoke a short-term residential rental license or renewal license for any of the following causes:

- (1) making any material false statement in an application for an initial or renewal license;
- (2) fraudulently or deceptively obtaining the license for oneself or for another;
- (3) fraudulently or deceptively using the license;
- (4) failing to abate within 120 days of issuance any violation notice, order, or citation for violating any provision of the City Building, Fire, and Related Codes Article, the City Health Article, or the Zoning Code of Baltimore City; or
- (5) failing to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle.

§ 48-22. Denial, suspension, or revocation of license - Notice and hearing.

(a) *In general.*

No license may be denied, suspended, or revoked under this subtitle unless the Finance Director first gives the licensee:

- (1) not less than 10 days notice in writing of the Director's intent to deny, suspend, or revoke the license; and
- (2) an opportunity to be heard as to why the license should not be denied, suspended, or revoked.

(b) *Exception.*

The Finance Director may deny, suspend, or revoke a license without prior notice and opportunity to be heard if, in the opinion of the Finance Director or of the Fire Chief, Housing Commissioner, Health Commissioner, or Police Commissioner, the health, safety, or welfare of the occupants or of the general public are in imminent danger.

§ 48-23. Judicial and appellate review.

(a) Judicial review.

A person aggrieved by a decision of the Finance Durector under this subtitle may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) Stays.

(1) The filing of a petition for judicial review does not stay the decision of the Commissioner.

(2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

§ 48-24 {Reserved}

Part 5. Enforcement

§ 48-25. Enforcement by Environmental Citation.

(a) In general.

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}.

(b) Process not exclusive.

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

§ 48-26. Penalties.

(a) In general.

Any person who violates any provision of this subtitle (including any offense listed in § 48-21 of this subtitle as potential cause for a denial, suspension, or revocation of a license) or any provision of a rule or regulation adopted under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.

(b) Each day a separate offense.

Each day that a violation continues is a separate offense.

Article 28. Taxes

Subtitle 21. Hotel Room Tax

§ 21-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Gross amounts of money.*

“Gross amounts of money” means the total gross payments of any kind or character (including cash, credit, property, and services), [received in a retail transaction for which real property is rented,] whether received in money or otherwise, without any deduction for charges or other amounts for any services necessary to complete the transaction.

(c) *Hotel.*

“Hotel” means a building containing sleeping accommodations for more than 5 persons and open to the transient public.

(d) *Owners or operators of hotels.*

“Owners or operators of hotels” means any person:

- (1) possessing or having an ownership interest in a hotel;
- (2) engaged in the business of operating a hotel; or
- (3) receiving any consideration for the rental of a hotel room for sleeping accommodations, including, without limitation, any broker, service provider, or other intermediary:
 - (i) with which a hotel has contracted to arrange for the rental of a hotel room for sleeping accommodations; or
 - (ii) that has acquired any hotel room for subsequent rental from the hotel for sleeping accommodations.

(e) *Short-term residential rental (and related terms).*

“Short-term residential rental” and related terms (such as “booking transaction”, “dwelling unit”, “host”, “hosting platform”, and “transient guest”) have the respective meanings stated in City Code Article 15, Subtitle 48 {“Short-Term Residential Rentals”}.

(f) [e] *Transient guest or tenant.*

“Transient guest or tenant” means a person or persons renting, using, or occupying a room or rooms for fewer than 90 consecutive days:

- (1) in a hotel for sleeping accommodations [for less than 90 consecutive days]; or
- (2) in a dwelling unit for a short-term residential rental.

§ 21-2. Tax imposed.

A tax of 9.5%, to be paid and collected as provided in this subtitle, is levied and imposed on all gross amounts of money that are [paid to]:

- (1) paid to the owners or operators hotels in the City by transient guests or tenants for renting, using, or occupying a room or rooms for sleeping accommodations[, to be paid and collected as provided in this subtitle];
- (2) paid to hosting platforms by transient guests for booking or otherwise facilitating short-term residential rentals; or
- (3) paid to hosts by transient guests for providing short-term residential rentals.

§ 21-4. Collections.

- (a) [*Hotel to collect and remit.*] *Tax to be collected and remitted.*

Every person, firm, association, or corporation [owning or operating any hotel in Baltimore City] subject to the tax imposed by § 21-2 {“Tax imposed”} of this subtitle:

- (1) shall collect the tax levied and imposed by this subtitle from the persons paying the rental or other charges for the use or occupancy of any room or rooms for sleeping accommodations [in his or its hotel]; and
- (2) shall pay the tax to the Director of Finance on or before the 25th day of each month.

....

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Offenses to which subtitle applies.

....

- (e) *Provisions and penalties enumerated.*

....

(2) Article 15. Licensing and Regulation

....

Subtitle 48. Short-Term Residential Rentals

§ 48-6. License required {for host}

\$500

§ 48-16. {Operational requirements for} hosting platforms

\$1,000

§ 48-21. {Offenses there listed as cause for}
denial, suspension, or revocation of license

\$500

All other provisions

\$250

....

Section 2. And be it further ordained, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

Section 3. And be it further ordained, That this Ordinance takes effect on the 180th day after the date it is enacted.