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DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

Massachusetts Municipal Association (MMA) Annual Meeting

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New Municipal Tax & Finance Legislation

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An Act Regulating and Insuring Short-term Rentals - St. 2018, c. 337

Generally

- Amends G.L. c. 64G, Room Occupancy Excise by adding “short-term rentals”
 - Applies to:
 - Short-term rentals of occupancies starting July 1, 2019, for which a rental contract was entered into on or after January 1, 2019
 - Rentals of property for more than 14 days in a calendar year

An Act Regulating and Insuring Short-term Rentals - St. 2018, c. 337

Generally

- State room occupancy excise
 - 5.7% of rent (rent defined in 64G:1)
 - Excise is paid to DOR by operator (proprietor)
 - Operators must register with DOR
 - Including those who transfer occupancies of short-term rentals for 14 days or less per calendar year

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- “Short-term rental” (64G:1)
 - Occupied property (not a hotel, motel, lodging house or bed and breakfast) where at least 1 room or unit is rented out through use of advance reservations
 - Includes apartment, house, cottage and condominium
 - Does not include tenancies at will, month-to-month leases or time-share property
 - Rental that is not for more than 31 consecutive calendar days

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Local Option 1 - Local option room occupancy excise (64G:3A)

- Maximum rate = 6% (Boston 6.5%)
- Applies to all room occupancies subject to state room occupancy excise
- Local acceptance (accept and establish rate)
 - Cities – majority vote of city council and if have elected mayor, mayor approval
- Town meeting government - majority vote annual/special town meeting
- Town council government – majority vote of council

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Local option room occupancy excise (64G:3A)

- Must report acceptance to DLS
- Effective date of local excise
 - The 1st day of calendar quarter following 30 days after acceptance vote or 1st day of a later calendar quarter if so voted

Acceptance Vote	Excise Effective
May 31, 2019	July 1, 2019
June 1, 2019	October 1, 2019

- See DLS website for acceptance timetable
- DOR collects local excise / distributes to city/town

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Local option room occupancy excise (64G:3A)

- If city/town has already accepted 64G:3A, local option excise will automatically apply to short-term rentals on July 1, 2019 that are subject to state excise (St. 2018, c. 337, s. 15.)
 - No additional local acceptance or other action by city/town is required

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Local option room occupancy excise (64G:3A)

- If city/town has not yet accepted 64G:3A, may accept 64G:3A and establish local rate
- If city/town has already accepted 64G:3A, it may amend the excise rate or revoke its acceptance of 64G:3A; however, it may not do so more than once in a 12-month period
- Amendment and revocation procedure and effective dates are same as with original acceptance

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Local Option 2 - Local option community impact fee (64G:3D)

- Only available if city/town has accepted local option excise under 64G:3A
- Up to 3% of rent for transfers of occupancies of certain short-term rentals
- Separate acceptance vote required – same manner of acceptance as for local excise
- Applies to certain short-term rentals on or after 7/1/19 for which a contract was entered into on or after 1/1/19

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Local option community impact fee (64G:3D)

- 64G:3D(a) – applies to each transfer of occupancy of “professionally managed unit” - one of two or more short-term rental units in same city/town not located within single- or two- or three-family dwelling that includes operator’s primary residence
- If adopt above impact fee, may, by separate additional vote, also impose impact fee on short-term rental units located within a two- or three-family dwelling that includes operator’s primary residence (64G:3D(b))

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Local option community impact fee (64G:3D)

- Paid monthly by the operator directly to city/town - 64G:3D(c)
- 35% of impact fee must be dedicated to affordable housing or local infrastructure projects - 64G:3D(c)
 - Special fund treatment – receipts reserved for appropriation
- 65% of impact fee = general fund revenue

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Local Option 3 - Local By-law / Ordinance (64G:14)

- Adoption of by-law or ordinance to regulate “operators” registered with DOR. By-law or ordinance may
 - Regulate location of operators and number of days operators may rent out in a year
 - Require licensing; but city/town may accept a certificate of registration with DOR
 - Establish penalties for violations and reasonable fee for administration
- Suggest consult with local counsel

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Cape Cod and Islands Water Protection Fund

- 2.75% additional excise in cities/towns within Barnstable, Nantucket and Dukes County, if city/town is subject to
 - Area wide wastewater management plan under s. 208 of federal Clean Water Act or
 - Equivalent plan determined by Dept. of Environmental Protection (DEP)
- Excise is paid by operator to DOR for transfer to Cape Cod and Islands Water Protection Fund

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Cape Cod and Islands Water Protection Fund

— According to DEP

- Mainland Cape – All Barnstable County towns are currently subject to a section 208 area wide wastewater management plan and so all are members of the Fund
 - 2.75% additional excise will apply
- Island towns (Nantucket and Dukes County) are not currently members of the Fund; they will need to work with DEP to obtain its determination of a “suitable equivalent plan” to join the Fund

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Cape Cod and Islands Water Protection Fund

- City/town may withdraw from Fund by 2/3 vote of legislative body; however
 - May not withdraw during term of financial assistance award from the Fund
 - No withdrawal from Fund until 3/28/20 - one year after effective date of legislation
- City/town may, by majority legislative body vote, return to the Fund after withdrawal, but shall not receive funding from the Fund for two years after its vote to return to the Fund

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Additional References

- FAQs - DOR website - <https://www.mass.gov/info-details/short-term-rentals-frequently-asked-questions>
- Division of Local Services - Local Option Webpage - <https://www.mass.gov/service-details/local-options-relating-to-property-taxation-cpa-meals-and-room-occupancy>
- Cape Cod Commission website - <http://www.capecodcommission.org/>
 - Regional Plans / Section 208 Plan