



Vermont Legislative Research Service

<http://www.uvm.edu/~vlrs/>



Short-Term Rental Regulations and Airbnb

Airbnb allows people to rent out their properties or spare rooms to guests via an online marketplace.¹ Potential renters search for different types of properties, including shared rooms, entire houses, or apartments. Guests can also search for places with certain amenities including laundry, Wi-Fi, swimming pools, and beach access.²

According to Airbnb's website, as of May 4, 2018, it had more than 800,000 listings in more than 90 countries worldwide.³ In Vermont, listings range from ski and lake cabins to cottages, homes, apartments, and private rooms. As of August 2017, Airbnb had a total of 5,100 short-term rentals listed in Vermont.⁴ In 2016, the company began to collect and remit to the Vermont Department of Taxes a 9.0% meal and room tax. After the implementation of this tax, between October 2016 and June 2017, the state collected \$2 million in taxes on Airbnb rentals.⁵

Vermonters made \$31 million renting their homes through the platform in 2017.⁶ Airbnb and other online marketplace services contribute to Vermont's economy through a sector known as the sharing economy.

The following report analyzes the potential impact of legislation that would regulate short-term rentals in the state of Vermont. Specifically, this report researches potential impacts of short-term rental legislation on the online rental platform Airbnb.

¹ Trefis Team, "As A Rare Profitable Unicorn, Airbnb Appears To Be Worth At Least \$38 Billion," *Forbes*, May 11, 2018, <https://www.forbes.com/sites/greatspeculations/2018/05/11/as-a-rare-profitable-unicorn-airbnb-appears-to-be-worth-at-least-38-billion/#6175c8fb2741>.

² Trefis Team, "As A Rare Profitable Unicorn, Airbnb Appears To Be Worth At Least \$38 Billion."

³ Trefis Team, "As A Rare Profitable Unicorn, Airbnb Appears To Be Worth At Least \$38 Billion."

⁴ Lillian Colasurdo and Michael Desrochers, *Short Term Rental Working Group Report* (Burlington, Vermont: Vermont Department of Health, 2017), <https://legislature.vermont.gov/assets/Legislative-Reports/2017-Act76-ShortTermRental.pdf>.

⁵ Lillian Colasurdo and Michael Desrochers, *Short Term Rental Working Group Report*.

⁶ Howard Weiss-Tisman, "Airbnb Will Accept Vermont's Proposed Short-Term Rental Legislation," *Vermont Public Radio*, March 28, 2018, <http://digital.vpr.net/post/airbnb-will-accept-vermonts-proposed-short-term-rental-legislation#stream/0>.

It is important to note that the conclusions in this report were based strictly on statistics about Airbnb. Other online short-term rental platforms exist, but this report focuses solely on the potential impacts of legislation regulating Airbnb, the largest online short-term rental platform. Any regulations that impact Airbnb would also impact other online short-term rental platforms like Travel Tech and HomeAway.

It also must be noted that some of the data in this report was gained through studies conducted by Airbnb. For example, the section describing Airbnb's economic impact on San Francisco utilizes data collected by Airbnb. While still relevant, the nature of this source must be considered when evaluating this study.

What is the Sharing Economy?

The sharing economy, also known as the gig economy or asset economy, is an increasingly popular business sector that encompasses peer-to-peer transactions.⁷ These transactions are facilitated by companies via the internet and various apps.⁸ PricewaterhouseCoopers, an auditing firm, reported that the sharing economy's five key sectors: automotive, hospitality, finance, staffing, and media streaming, generated \$14 billion in global revenue in 2014.⁹ They project that this sector has the capability to generate \$335 billion in global revenue in 2025.¹⁰ Rules and regulations continue to be developed to apply to the sector as its popularity increases.

Vermont's Proposed Legislation on Short-Term Rentals

On March 20, 2018, the Vermont Senate passed S.204, "An Act Relating to the Registration of Short-Term Rentals," sponsored by Senator Virginia Lyons (D-Chittenden), Senator Michael Sirotkin (D-Chittenden), and Senator Claire Ayer (D-Addison).¹¹ The legislation would impose new registration requirements for short-term property rentals.¹² Specifically, the legislation asserts that no person in Vermont can operate or maintain a short-term rental until the rental property is registered with the Vermont Department of Health. The host must also obtain a certificate of compliance with existing Vermont property standards, including meeting zoning and water supply compliances, having rooms free of insects, rodents, and pests, and using proper sewage practices.¹³

Under this bill, before a rental could be advertised online, the certificate of compliance number must be posted by the host online with the short-term rental.¹⁴ These numbers prove to the state and to potential renters that the host meets Vermont short-term rental requirements and standards. If it becomes law, this

⁷ Sarah Cannon and Lawrence Summers, "How Uber and the Sharing Economy can Win Over Regulators," *Harvard Business Review*, October 13, 2014, <https://hbr.org/2014/10/how-uber-and-the-sharing-economy-can-win-over-regulators>.

⁸ Sarah Cannon and Lawrence Summers, "How Uber and the Sharing Economy can win over Regulators."

⁹ PricewaterhouseCoopers, *Consumer Intelligence Series: The Sharing Economy*, (London, England), 2015, <https://www.pwc.com/us/en/technology/publications/assets/pwc-consumer-intelligence-series-the-sharing-economy.pdf>.

¹⁰ PricewaterhouseCoopers, *The Sharing Economy*.

¹¹ "S.204: An Act Relating to the Registration of Short-Term Rentals," Vermont Senate, 2018, <https://legislature.vermont.gov/bill/status/2018/S.204>.

¹² Vermont Senate, "S.204."

¹³ Vermont Senate, "S.204."

¹⁴ Vermont Senate, "S.204."

bill will give the state the right to periodically inspect the short-term rental properties. If violations of the certificates of compliance are found, after a hearing the state reserves the right to revoke, modify, or suspend the host's certificate and issue a fine.¹⁵

As of May 1, 2018, S.204 was being considered by the Vermont House of Representatives Committee on General, Housing, and Military Affairs.¹⁶ If the bill becomes law, S.204 will amend Sec. 1. 18 V.S.A. Chapter 85, which refers to existing Vermont health laws for food and lodging establishments, which include standards set by the Vermont Commissioner of Health including providing proper plumbing and waste management systems, suitable water supply systems, and adequate lighting and ventilation.¹⁷

Airbnb is aware of S.204, and during an interview with Vermont Public Radio on March 28, 2018, Airbnb attorney Andrew Kalloch said the following about the legislation: “This registration system is not particularly onerous. And provided that it is set up in a way that people can register online, and pay a nominal fee, we are generally comfortable with that.”¹⁸

The company has asserted it will comply with a system that allows people to pay a small fee online. Lawmakers are also considering including an annual \$130 charge in S.204.¹⁹

Case Studies

The following case studies of Airbnb legislation in San Francisco, Virginia, and Florida present different strategies in regulations and explore their potential impact. San Francisco was selected because that is where Airbnb first began operating and continues to have its headquarters. The San Francisco case study illustrates the potential impact of short-term rental legislation since it was adopted earlier than the other case studies. The Virginia legislation legalizing short-term rental registries is similar to what has been proposed in Vermont. The Florida case study represents an alternative legislative proposal Vermont could examine.

San Francisco

In April 2017, Airbnb agreed to a series of short-term rental registration requirements imposed by San Francisco.²⁰ The new regulations establish a number of requirements for hosts before they can register. These regulations share a number of similarities with those recently proposed in Vermont.

¹⁵ Vermont Senate, “S.204.”

¹⁶ Vermont Senate, “S.204.”

¹⁷ 18 V.S.A. § 430, State of Vermont (Vermont State House Website 2018), <https://legislature.vermont.gov/statutes/fullchapter/18/085>.

¹⁸ Howard Weiss-Tisman, “Airbnb Will Accept Vermont's Proposed Short-Term Rental Legislation.”

¹⁹ Howard Weiss-Tisman, “Airbnb Will Accept Vermont's Proposed Short-Term Rental Legislation.”

²⁰ “San Francisco’s Registration Process,” Frequently Asked Questions, Airbnb, <https://www.airbnb.com/help/article/1849/san-francisco-s-registration-process--frequently-asked-questions>.

Before listing a San Francisco property on Airbnb, the owner or tenant must be registered as a “certified host.”²¹ This process involves two steps: registering as a business, and registering as a certified host through the San Francisco Office of Short-Term Rentals.²² In order to register as a business the owner or tenant must be a permanent resident of the property, meaning that they must live in the property for at least 275 days per year.²³ Before being able to register as a business, the owner or tenant must have property liability insurance of at least \$500,000 in value, and the property must meet all of San Francisco’s code standards.²⁴

Once an owner or tenant’s application is approved, he or she receives a short-term residential rental registration number. With approval, the host can post listings on Airbnb and other rental websites. The host can never rent the property for more than thirty consecutive days.²⁵ If the host is not present when the property is being rented, the property can only be rented for a total of ninety days per calendar year.²⁶ If the host is present when renting the property, there is no limitation to the number of days per year it can be rented, provided it is not rented for more than thirty consecutive days.²⁷

Both property owners and tenants can collect income through short-term renting. But tenants cannot earn more money as hosts than they pay per month in rent.²⁸ Hosts also must charge a fourteen percent transient occupancy tax that is paid to the city of San Francisco, which is collected and remitted through Airbnb.²⁹ A transient occupancy tax is placed on temporary lodging, with a rate is equivalent to the tax applied to hotels.³⁰

San Francisco imposes penalties for short-term rental hosts who do not meet registration requirements. The Office of Short Term Rentals asserts that violators of short-term rental laws “are subject to penalties of at least \$484 per day for each dwelling unit in violation,” and that these penalties are accrued until the violation is resolved.³¹

The new regulations provide San Francisco with certain economic benefits. First, the city collects revenue through fees imposed on registration, including the \$90 business registration fee and the \$250 certified host registration fee.³² Additionally, San Francisco collects revenue through the fourteen percent transient

²¹ “Become a Certified Host,” City and County of San Francisco Office of Short-Term Rentals Website (San Francisco, California), <https://shorttermrentals.sfgov.org/hosting/become-certified>.

²² San Francisco, “Become a Certified Host.”

²³ San Francisco, “Become a Certified Host.”

²⁴ San Francisco, “Become a Certified Host.”

²⁵ San Francisco, “Become a Certified Host.”

²⁶ San Francisco, “Become a Certified Host.”

²⁷ San Francisco, “Become a Certified Host.”

²⁸ “Overview of Airbnb Law in San Francisco, Stephen Fishman, *Nolo*, (Berkeley, California), 2018, <https://www.nolo.com/legal-encyclopedia/overview-airbnb-law-san-francisco.html>.

²⁹ “San Francisco, CA,” Airbnb, updated August 28, 2017, <https://www.airbnb.com/help/article/871/san-francisco--ca>.

³⁰ San Francisco Treasurer & Tax Collector, “Transient Occupancy Tax,” City and County of San Francisco, (San Francisco, California), <https://www.sftreasurer.org/tot>.

³¹ San Francisco, “Become a Certified Host.”

³² Carolyn Said, “Airbnb Loses Thousands of Hosts in SF as Registration Rules Kick in, San Francisco Chronicle,” January 13, 2018, <https://www.sfchronicle.com/business/article/Airbnb-loses-thousands-of-hosts-in-SF-as-12496624.php>.

occupancy tax. There has, however, been a noticeable decrease in San Francisco listings on Airbnb since the regulations were imposed. In August 2017, Airbnb had over 10,000 listings in San Francisco.³³ The *San Francisco Chronicle* reported that by January 17, 2018, when the registration requirements started being enforced, almost 5,000 listings had been removed from Airbnb's website, with local listings decreasing to just 5,500.³⁴

Although the new regulations have decreased the number of local listings, this does not necessarily mean the short-term rental business has been damaged. Many listings that were removed were dormant listings that were rarely, if ever, rented.³⁵ According to District Three Supervisor Aaron Peskin, the decrease in listings opens up seldom-used properties for rent by San Francisco residents, helping to address the city's housing crisis.³⁶ The regulations also help ensure that the properties being rented are generating money for the city of San Francisco and meet the same standards as other rental properties in the city.

Airbnb listings have contributed to the San Francisco sharing economy. In 2012, Airbnb conducted a study of the economic impact of its listings on San Francisco. Although there were fewer listings in 2012 than 2018, they still generated \$56 million in local spending and provided hosts with \$12.7 million.³⁷ In 2012, fifty-six percent of hosts reported to Airbnb that they used their Airbnb income to help pay their mortgage or rent.³⁸ With fewer active listings because of the regulations, these revenues could decrease from previous levels.

Virginia

In 2017, the Virginia General Assembly passed Senate Bill 1578, "Short-term rental of property: registration of persons offering property for rental."³⁹ This bill allows localities to require owners of short-term rentals to register their property with the local government.⁴⁰ In 2016, Airbnb reported that hosts in Virginia earned \$41.4 million and that the number of hosts grew sixty-five percent, to 6,800 people, in 2016.⁴¹ S.B. 1578 allows towns and cities to collect taxes in this growing sector.⁴²

³³ Carolyn Said, "Airbnb Loses Thousands of Hosts."

³⁴ Carolyn Said, "Airbnb Loses Thousands of Hosts."

³⁵ Carolyn Said, "Airbnb Loses Thousands of Hosts."

³⁶ Carolyn Said, "Airbnb Listings in San Francisco Plunge by Half, *San Francisco Chronicle*," January 16, 2018, <https://www.sfchronicle.com/business/article/Airbnb-listings-in-San-Francisco-plunge-by-half-12502075.php>.

³⁷ "Airbnb Economic Impact," At Airbnb Blog, <https://blog.airbnb.com/economic-impact-airbnb/>.

³⁸ Airbnb, "Airbnb Economic Impact."

³⁹ S.B. 1578, "An act Relating to Short-Term Rental of Property; Registration of Persons Offering Property for Rental," Virginia Senate, 2017, <https://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB1578>.

⁴⁰ S.B. 1578, "An Act Relating to Short-Term Rental of Property; Registration of Persons Offering Property for Rental."

⁴¹ Paula C. Squires, "Virginia's Airbnb Hosts Earned More Than \$41 Million in 2016," *Virginia Business*, February 23, 2017, <http://www.virginiabusiness.com/news/article/virginias-airbnb-hosts-earned-more-than-41-million-in-2016>.

⁴² S.B. 1578, "An Act Relating to Short-Term Rental of Property; Registration of Persons Offering Property for Rental."

With a registry, local governments can impose penalties of up to \$500 against those who fail to register.⁴³ Localities that do implement registries may require that property owners notify adjacent neighbors, gain permission from the locality to offer the property for rental, and carry a minimum of \$500,000 of commercial premises liability insurance.⁴⁴ If a locality chooses to ban all short-term rentals, any person or entity violating those terms can be subjected to a fine of up to \$10,000. Localities are also permitted to charge a reasonable registration fee for short-term rental operators that is related to the cost of establishing and maintaining the registry.⁴⁵

This bill passed with strong bipartisan support, but its current impact is difficult to measure, as it is unclear how many localities have established or plan to establish registries.⁴⁶ Despite bans of short-term rentals in some cities, rentals continue to operate. Virginia Beach, for example, prohibits short-term rentals but reports that around 300 continue to advertise lodging.⁴⁷

Florida

Florida was one of the first states to act to ensure that the option of Airbnb remains available.⁴⁸ There is a strong divide on this issue. Property owners want more freedom to use residential property for short-term rentals through website platforms such as Airbnb.⁴⁹ Groups supporting regulation include local governments, who want zoning control and the ability to regulate certain problems associated with vacation renters.⁵⁰ Homeowners associations, whose members do not want to live amongst short-term renters, and the hotel industry, which opposes the competition, are also among those that support regulation.⁵¹

In early 2017, Florida State Senator Greg Steube introduced S.B. 188, “An Act Relating to Vacation Rentals.”⁵² This bill is modeled after a bill that passed in Arizona in early 2017.⁵³ Under S.B. 188, local

⁴³ “S.B. 1578, An Act Relating to Short-Term Rental of Property; Registration of Persons Offering Property for Rental.”

⁴⁴ “S.B. 1579, An Act Relating to Short-Term Rental; Affirms Right of Localities to Regulate Rental of Property,” Virginia Senate, 2017, <https://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB1579>.

⁴⁵ § 15.2-983, *Creation of Registry for Short-Term Rental of Property*, State of Virginia (Virginia Law Library 2017), <https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-983/>.

⁴⁶ John Blackwell, “McAuliffe Signs Legislation to Enable Local Regulation of Short-Term Rentals Such as Airbnb in VA,” *Richmond Times Dispatch*, March 27, 2017, http://www.richmond.com/business/local/mcauliffe-signs-legislation-to-enable-local-regulation-of-short-term/article_e6fe0bd8-4f3f-55df-af0f-af471ac71a18.html.

⁴⁷ Kim Cung, “Virginia Beach City Council Discusses Ways to Better Regulate Airbnb and Short-Term Rentals” *WTKR 3*, February 27, 2018, <http://wtkr.com/2018/02/27/virginia-beach-city-council-discusses-ways-to-better-regulate-airbnb-and-short-term-rentals/>.

⁴⁸ Byron Flagg, “Florida’s ‘Vacation Rental’ Laws To Be Readdressed in 2018 Legislative Session,” *JD Supra*, December 5, 2017, <https://www.jdsupra.com/legalnews/florida-s-vacation-rental-laws-to-be-24700/>.

⁴⁹ Byron Flagg, “Florida’s ‘Vacation Rental’ Laws To Be Readdressed in 2018 Legislative Session.”

⁵⁰ Byron Flagg, “Florida’s ‘Vacation Rental’ Laws To Be Readdressed in 2018 Legislative Session.”

⁵¹ Byron Flagg, “Florida’s ‘Vacation Rental’ Laws To Be Readdressed in 2018 Legislative Session.”

⁵² “S.B. 188, An Act Relating to Vacation Rentals,” Florida Senate, 2017,

<http://www.flsenate.gov/Session/Bill/2017/188/BillText/Filed/PDF>.

⁵³ Jared Meyer, “How To Save Airbnb From Local Governments,” *Forbes*, February 1, 2017,

<https://www.forbes.com/sites/jaredmeyer/2017/02/01/how-to-save-airbnb-from-local-governments/#4e843c623aa4>.

governments will not be allowed to prohibit short-term rentals or treat them differently from other forms of housing.⁵⁴

Currently, municipal governments in Florida are imposing regulations on short-term rentals including \$10,000 a day fines, licensing fees, special utility assessments, government inspections with short notice, and requirements for privacy and noise buffering fences.⁵⁵ Some state legislators oppose the regulations, arguing that they damage the industry.⁵⁶ Senator Greg Steube says, “As these examples show, local governments’ goal is often to so heavily regulate short-term rentals that they are essentially prohibited. Additionally, because they can single out short-term rentals and treat them differently from all other forms of housing, local governments feel unfettered to pass these onerous regulations.”⁵⁷

Florida’s Constitution offers the same protection to homeowners whether they choose to rent their property on a long-term or a short-term basis, but towns can implement their own regulations.⁵⁸ Additionally, Florida’s local governments’ regulatory powers are susceptible to statewide preemption.⁵⁹

Conclusion

Vermont would not be the first government entity to enact legislation regulating short-term rentals. As highlighted by the case studies of San Francisco, Virginia, and Florida, various types of legislation have been proposed to accomplish this goal. Such regulation has positive and negative consequences: San Francisco’s regulations have increased revenue for the city through tax collection and registration fees, and they have also allowed the city to better enforce housing standards that accompany more traditional rental properties.⁶⁰ But enforcement of the regulations has caused a substantial decrease in Airbnb listings, many of which were previously active.⁶¹ A change like this could have negative economic implications if the regulations cause the short-term rental market to shrink.

The legislation passed in Virginia highlights that statewide efforts have been made to regulate Airbnb and other short-term rental platforms, but enforcement of these policies can be difficult. Without strict and potentially restricting enforcement practices, short-term rental legislation could be ineffective.

The legislation in Florida works to deregulate municipal governments’ ability to unfairly penalize short-term renters. S.B. 188, which prohibits different treatment of short-term rentals, would be a step in the state trying to increase freedoms of property owners, and renters.⁶²

⁵⁴ Jared Meyer, “How To Save Airbnb From Local Governments.”

⁵⁵ Jared Meyer, “How To Save Airbnb From Local Governments.”

⁵⁶ Jared Meyer, “How To Save Airbnb From Local Governments.”

⁵⁷ Florida Senate, “S.B. 188: An Act Relating to Vacation Rentals.”

⁵⁸ Jared Meyer, “How To Save Airbnb From Local Governments.”

⁵⁹ Jared Meyer, “How To Save Airbnb From Local Governments.”

⁶⁰ Carolyn Said, “Airbnb Listings in San Francisco Plunge.”

⁶¹ Carolyn Said, “Airbnb Listings in San Francisco Plunge.”

⁶² Byron Flagg, "Florida's 'Vacation Rental' Laws To Be Readdressed in 2018 Legislative Session."

The current Vermont legislation on short-term rental regulation would follow actions taken by other states and municipalities, and as highlighted by the case studies provided, the legislation could have potentially positive and negative implications. It could help ensure short-term rentals through Airbnb in Vermont meet other state housing standards, but it could also decrease listings in the state and potentially restrict short-term renters. Because of an Airbnb attorney's comments on Vermont Public Radio, it appears unlikely the company would oppose S.204 if it became law.

This report was completed on July 16, 2018, by Rosie Contompasis, Erin Thorndike, and Eric Tucker, under the supervision of Professor Jack Gierzynski and Professor Robert Bartlett with the assistance of Research Assistant Lauren Rayson.

Contact: Professor Jack (Anthony) Gierzynski, 517 Old Mill, The University of Vermont, Burlington, VT 05405, phone 802-656-7973, email agierzyn@uvm.edu.

Disclaimer: The material contained in the report does not reflect the official policy of the University of Vermont.