

To: Moderator's Short-Term Rental Law Committee
From: Patty Correa
Date: 2/4/2021
Re: 2018 Mass. Acts ch. 337 v. "lodging houses" v. "bed and breakfast homes"

Below is a summary of relevant provisions of 2018 Mass. Gen. Laws c. 337 that are now codified at Massachusetts General Laws ch. 64G (otherwise known as the "STR law"). In light of discussions last night, I have added highlighting to emphasize provisions regarding the exclusions from the State statutory definition of "short-term rental" and on taxes/fees (and again, the warrant articles from the Fall 2020 Town Meeting incorporated the State law definition). I also attach the full law. As I said last night, there certainly is the ability, whether under the auspices of this Committee or otherwise, to propose regulations for "lodging houses" (or any other entity excluded from the State STR definition, whether that be "bed and breakfast establishments" and/or "bed and breakfast homes"; you can see from the below and attached that the State statute excludes a number of different lodging business models from "STRs" that are addressed in other laws/licensing schemes). If you would like to explore additional local regulation of these other lodging models covered by different laws/licensing schemes (that would be beyond the Select Board's Lodging House Regulations posted on the Town website I brought to your attention last night), I recommend that be done through separate warrant article(s) proposing different by-laws addressing those business models and licensing schemes. I am happy to answer any additional questions in this regard.

RELEVANT DEFINITIONS:

G.L. c. 64G, s. 1 [Definitions of entities subject to local excise tax]

"Bed and breakfast establishment" – private **owner-occupied house** where **4 or more** rooms are let, breakfast is included, and reservations are made in advance.

"Bed and breakfast home" – private **owner-occupied house** where **3 or less** rooms are let, breakfast is included and reservations are made in advance.

"Short-term rental" – lodging that is **not** a bed and breakfast establishment, hotel, motel or lodging house where 1) at least 1 room or unit is let, and 2) reservations are made in advance.¹

"Lodging house" – as per G.L. c. 140 s. 23. [Town Regs Def.: "Every dwelling or part thereof which contains one or more rooming units in which space is let or sublet for

¹ Full statutory definition: "'Short-term rental', an owner-occupied, tenant-occupied or nonowner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or suboccupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such."

compensation by the licensee, owner or operator to four or more persons not within the second degree of kindred to the person compensated. The term Lodging House shall include: boarding houses, rooming houses, inns, bed and breakfast establishments, dormitories, fraternity houses and other similar dwelling places.

[Hotel: satisfies requirements of c. 140 ss. 2 et seq. re innholders (e.g., has a restaurant, etc.)]

“Motel” – as per G.L. c. 140, s. 32B. Section 32B: required to be licensed. Section 32A: “The term “motel”, as used in section twenty-seven, in this section, and in sections thirty-two B to thirty-two E, inclusive, shall be construed to mean any building or group of buildings which provide sleeping accommodations for transient motorists and which is not licensed as an inn.”

LOCAL EXCISE TAX/COMMUNITY IMPACT FEES:

G.L. c. 64G, s. 2(vi) – EXCLUSION FROM C. 64G²: “Bed and breakfast homes” are excluded from Chapter 64G (private owner-occupied house where 3 or less rooms are let, breakfast is included and reservations are made in advance, see above).

G.L. c. 64G s. 3A – LOCAL OPTION LOCAL EXCISE TAX on the establishments above under Section 1 **unless** rent is less than \$15/day. **No more than 6%** of the total rent. Adoption by a majority vote of the **annual town meeting** or a **special meeting called for that purpose**.

² **Full language of Section 2’s exclusions:** “This chapter shall not include: (i) lodging accommodations at a federal, state or municipal institution; (ii) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that the exemption allowed shall not apply to accommodations provided by any such institution at a hotel or motel generally open to the public and operated by the institution; (iii) privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; (iv) religious or charitable homes for the aged, infirm, indigent or chronically ill; (v) summer camps for children up to 18 years of age or developmentally disabled individuals; provided, however, that a summer camp that offers its facilities off season to individuals 60 years of age or older for a period of not more than 30 days in a calendar year shall not lose its exemption under this section; (vi) bed and breakfast homes; (vii) lodging accommodations provided to seasonal employees by employers; (viii) alcohol and drug free housing that is certified pursuant to section 18A of chapter 17; (ix) tenancies at will or month-to-month leases; and (x) time-shares, as defined in section 2 of chapter 183B.

For the purposes of this section, “developmentally disabled individual” shall mean an individual who has a severe chronic disability that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is likely to continue indefinitely; (iii) results in substantial functional limitations in not less than 3 of the following areas of major life activity: (A) selfcare; (B) receptive and expressive language; (C) learning; (D) mobility; (E) self-direction; (F) capacity for independent living; and (G) economic self-sufficiency; and (iv) reflects the individual’s need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.”

IN THE EVENT OF, AND FOLLOWING, SECTION 3A ADOPTION:

G.L. c. 64G s. 3D(a) – COMMUNITY IMPACT FEE ON STRs THAT ARE PROFESSIONALLY-MANAGED UNITS: of no more than 3% of rental fee on **professionally managed units**.

A **professionally managed unit** is **1 of 2 or more** short-term rentals **within the same town** operated by the same operator that are within a building that is **not** an **owner-occupied single-, two- or three-family dwelling**. [I.E., ON 1) **non-owner occupied** single-, two-, or three-family dwelling, and 2) **owner-occupied** building of four or more dwellings).

Adoption by **separate** majority vote at **annual** Town Meeting or a **special meeting called for that purpose**.

IN THE EVENT OF, AND FOLLOWING, 1) SECTION 3A ADOPTION, FOLLOWED BY 2) SECTION 3B ADOPTION:

G.L. c. 64G s. 32D(b) – COMMUNITY IMPACT FEE ON ALL OTHER STRS THAN OWNER-OCCUPIED SINGLE-FAMILIES: of no more than 3% of rental fee on STRs within **owner-occupied two- and three-family** dwellings.

CERTIFICATE OF REGISTRATION REQUIREMENT: **G.L. c. 64G, s. 6.**

LOCAL REGULATION: **G.L. c. 64G, s. 14.** “A ... town, by ... by-law, may regulate operators registered under G.L. c. 62C, s. 67, and impose penalties” for its violation. “A ... town , by ... by-law, may:

- (i) Regulate the existence of location of operators, including regulating the class of operators and the number of licenses or permits issued under this section and the number of days a person may operate and rent out
- (ii) Require licensing or registration of operators within the town, including (A) accepting the state registration in lieu of a local license or registration, and (B) issue a provisional license or registration to offer accommodations on a temporary or seasonal basis
- (iii) Require operators to demonstrate absence of building, electrical, mechanical, fire, health, housing or zoning code enforcement actions
- (iv) Require properties to undergo health and safety inspections, with fees to be paid by operators.
- (v) Establish a civil penalty for by-law violation, but if local license to operate is suspended or terminated, Commissioner of Revenue must be notified.
- (vi) Establish a reasonable fee to cover the costs associated with local administration and enforcement.

STATE OPERATIONAL REQUIREMENTS

G.L. c. 64G, s. 14(vi): An operator of a STR shall post inside the STR unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.

G.L. c. 175, s. 4F(b) [inserted by s. 9]: An operator shall maintain liability insurance of not less than \$1,000,000 to cover each STR, unless the STR is offered through a hosting platform that maintains equal or greater coverage. Such coverage shall defend and indemnify the operator and any tenants or owners in the building for bodily injury and property damage arising from the short-term rental.

G.L. c. 175 s. 4F(c): Prior to offering an STR through a hosting platform, the hosting platform must notify the operator that standard homeowners or renters insurance may not cover damage or bodily injury to a third-party arising from the STR.

G.L. c. 175 s. 4F(f): An operator shall notify the homeowners or renters insurance provider for the property of intent to operate an STR on the premises.

NO CREATION OF RIGHTS IN CONTRAVENTION OF PRIVATE CONTRACTUAL OBLIGATIONS

G.L. c. 64G, s. 15: “Nothing in this chapter shall confer a right to lease, sublease or otherwise offer a residential unit as a short-term rental where such use is prohibited by ... any ... restriction, covenant, requirement or enforceable agreement.”

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M.G.L.A. Pt. I, T. IX, Ch. 64G, Refs & Annos

[Currentness](#)

Editors' Notes

GENERAL NOTES

<Chapter 64G of the General Laws was added by St.1966, c. 14, § 25.>

<The section headings for Massachusetts General Laws Annotated have been editorially supplied.>

M.G.L.A. Pt. I, T. IX, Ch. 64G, Refs & Annos, MA ST Pt. I, T. IX, Ch. 64G, Refs & Annos
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M.G.L.A. 64G § 1

§ 1. Definitions

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Bed and breakfast establishment”, a private owner-occupied house where not less than 4 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Bed and breakfast home”, a private owner-occupied house where not more than 3 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Commissioner”, the commissioner of revenue.

“Hosting platform”, a service through a digital platform, third-party website, software, online-enabled application, mobile phone application or some other, similar electronic process that allows: (i) an operator to advertise, list or offer the use of an accommodation subject to the excise under this chapter in exchange for rent; (ii) an operator to collect the payment of rent on an accommodation; and (iii) a person to arrange, book, reserve or rent an accommodation.

“Hotel”, a building used for the feeding and lodging of guests licensed or required to be licensed under [section 6 of chapter 140](#).

“Intermediary”, a person or entity, other than an operator, that facilitates the sale, use or possession of an occupancy and charges a room charge to the general public; provided, however, that the term “facilitates” shall include a person or entity that brokers, coordinates or in any other way arranges for the purchase, sale, use or possession of occupancies by the general public; provided further, that the term “intermediary” shall include a hosting platform and operator’s agent.

“Lodging house”, a house licensed or required to be licensed under [section 23 of chapter 140](#) and where lodgings are rented

to not less than 4 people who shall not be within the second degree of kindred to the owner or operator of such lodging house.

“Motel”, a building or portion of a building in which a person is lodged for hire with or without meals and that is licensed or required to be licensed under [section 32B of chapter 140](#); provided, however, that a “motel” shall not include a hotel or lodging house.

“Occupancy”, the use or possession or the right to the use or possession of a room in a bed and breakfast establishment, hotel, lodging house or motel designed and normally used for sleeping and living purposes for a period of not more than 90 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee, or the use or possession or the right to the use or possession of a room in a short term rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee; provided, however, that “occupancy” shall include the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment, accompanying the use and possession of such a room.

“Occupant”, a person who uses, possesses or has a right to use or possess a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel for rent under a lease, concession, permit, right of access, license or agreement.

“Operator”, a person operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in the commonwealth including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such bed and breakfast establishment, hotel, lodging house, short-term rental or motel.

“Operator’s agent”, a person who on behalf of an operator of a bed and breakfast establishment, hotel, motel, short-term rental or lodging house: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent; provided, however, that an “operator’s agent” shall include, but not be limited to, a property manager, property management company or real estate agent.

“Person”, an individual, partnership, trust or association, with or without transferable shares, joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit.

“Professionally-managed unit”, 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator’s primary residence.

“Rent”, the total consideration paid by or on behalf of an occupant, including any service, cleaning or other charge, to an operator or an intermediary collecting and remitting the excise on behalf of an operator under [section 13](#) in exchange for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature; provided, however, that “rent” shall not include: (i) bona fide refundable security deposits; (ii) any amount paid by an occupant that is included in the taxable gross receipts of the operator under chapter 64H or 64I where the operator is a vendor for purposes of those chapters; or (iii) amounts paid by an occupant to an operator for services offered by the operator on similar terms to non-occupants in the regular course of the operator’s business.

§ 1. Definitions, MA ST 64G § 1

“Short-term rental”, an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Credits

Added by St.1966, c. 14, § 25. Amended by St.1967, c. 745; St.1984, c. 358, § 1; [St.1988, c. 31, § 1](#); [St.1989, c. 341, § 55](#); [St.2018, c. 337, § 6](#), as amended by St.2019, c. 5, § 32, eff. Mar. 28, 2019.

[Notes of Decisions \(8\)](#)

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M.G.L.A. 64G § 2

§ 2. Exempted accommodations

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

This chapter shall not include: (i) lodging accommodations at a federal, state or municipal institution; (ii) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that the exemption allowed shall not apply to accommodations provided by any such institution at a hotel or motel generally open to the public and operated by the institution; (iii) privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; (iv) religious or charitable homes for the aged, infirm, indigent or chronically ill; (v) summer camps for children up to 18 years of age or developmentally disabled individuals; provided, however, that a summer camp that offers its facilities off season to individuals 60 years of age or older for a period of not more than 30 days in a calendar year shall not lose its exemption under this section; (vi) bed and breakfast homes; (vii) lodging accommodations provided to seasonal employees by employers; (viii) alcohol and drug free housing that is certified pursuant to [section 18A of chapter 17](#); (ix) tenancies at will or month-to-month leases; and (x) time-shares, as defined in [section 2 of chapter 183B](#).

For the purposes of this section, “developmentally disabled individual” shall mean an individual who has a severe chronic disability that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is likely to continue indefinitely; (iii) results in substantial functional limitations in not less than 3 of the following areas of major life activity: (A) self-care; (B) receptive and expressive language; (C) learning; (D) mobility; (E) self-direction; (F) capacity for independent living; and (G) economic self-sufficiency; and (iv) reflects the individual’s need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.

Credits

Added by St.1966, c. 14, § 25. Amended by [St.1987, c. 581, § 1](#); [St.1988, c. 31, § 2](#); [St.2009, c. 27, § 50, eff. Aug. 1, 2009](#); [St.2018, c. 337, § 6, eff. Mar. 28, 2019](#).

[Notes of Decisions \(2\)](#)

§ 2. Exempted accommodations, MA ST 64G § 2

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M.G.L.A. 64G § 3

§ 3. Imposition and rate; payment

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, [Secs. 14](#) and 15A as added by 2019, 5, [Sec. 37](#).]>

An excise shall be imposed upon the transfer of occupancy of a room or unit in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel by an operator at the rate of 5 per cent of the total amount of rent for each such occupancy. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent.

The operator shall pay the excise to the commissioner at the time provided for filing the return required under [section 16 of chapter 62C](#).

No excises or fees established under this chapter shall be imposed upon the transfer of occupancy of a short-term rental if the operator transfers such short-term rental for not more than 14 days in a calendar year, provided, that the operator has first: (i) registered with the commissioner in accordance with [section 67 of chapter 62C](#); and (ii) filed a declaration with the commissioner, signed by the operator and subject to [section 5 of chapter 62C](#), setting forth the intention to transfer the short-term rental for not more than 14 days in a calendar year. Such a declaration, if applicable, shall be required annually in a manner determined by the commissioner. If the operator transfers the short-term rental for 15 days or more in the same calendar year, or fails to register and file a declaration as required by this section, then the operator shall be liable for the payment of required excises and fees under this chapter, including payment of required taxes and fees on the first 14 days the short-term rental was transferred in the calendar year.

Credits

Added by St.1966, c. 14, § 25. Amended by St.1976, c. 415, § 70; St.1984, c. 358, § 2; [St.1988, c. 31, § 3](#); [St.2018, c. 337, § 6](#), eff. [Mar. 28, 2019](#).

[Notes of Decisions \(6\)](#)

§ 3. Imposition and rate; payment, MA ST 64G § 3

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M.G.L.A. 64G § 3A

§ 3A. Local excise tax; information concerning amount collected available

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, [Secs. 14](#) and 15A as added by 2019, 5, Sec. 37.]>

A city or town that accepts this section may impose a local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within that city or town by an operator at a rate of not more than 6 per cent of the total amount of rent for each such occupancy; provided, however, that the city of Boston may impose such local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within the city by an operator at the rate of not more than 6.5 per cent of the total amount of rent of each such occupancy. No excise shall be imposed if the total amount of rent is less than \$15 per day or its equivalent or if the accommodation is exempt under [section 2](#). An operator shall pay the local excise imposed under this section to the commissioner at the same time and in the same manner as the excise due to the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the transfer of occupancy in each such city or town. Acceptance of this section shall be: (i) by a majority vote of the city council with the approval of the mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city; (ii) by a majority vote of the city council in every other city; (iii) by a majority vote of the annual town meeting or a special meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) by a majority vote of the town council in the case of a municipality with a town council form of government. This section shall take effect on the first day of the calendar quarter following 30 days after its acceptance or on the first day of a later calendar quarter as the city or town may designate. The city or town, in accepting this section, shall not revoke or otherwise amend the applicable local tax rate more often than once in a 12-month period.

The commissioner shall make available to a city or town requesting such information the total amount of room occupancy tax collected in the preceding fiscal year in the city or town requesting the information.

Credits

Added by St.1985, c. 145, § 6. Amended by St.1986, c. 423, § 2; St.1988, c. 31, § 4; St.1992, c. 133, § 416; St.1997, c. 152, § 22; St.2009, c. 27, §§ 51, 52, eff. Aug. 1, 2009; St.2018, c. 337, § 6, eff. Mar. 28, 2019.

[Notes of Decisions \(1\)](#)

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M.G.L.A. 64G § 3B

§ 3B. Reversion of convention center financing fees imposed upon transfers of occupancy of short-term rentals in certain cities

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Secs. 14A and 15A as added by 2019, 5, Sec. 37.]>

Notwithstanding sections 9 and 10 of chapter 152 of the acts of 1997, the convention center financing fee imposed upon the transfer of occupancy of a short-term rental in the cities of Boston, Cambridge, Springfield, Worcester, West Springfield and Chicopee shall revert half to the General Fund and half to the city in which the short-term rental was transferred.

Credits

Added by [St.2018, c. 337, § 6, eff. Mar. 28, 2019.](#)

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M.G.L.A. 64G § 3C

§ 3C. Imposition of additional excise on members of Cape Cod and Islands Water Protection Fund

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, [Secs. 14](#) and 15A as added by 2019, 5, Sec. 37.]>

In addition to the excise imposed under [section 3](#) and any excise imposed under [section 3A](#), an excise shall be imposed on the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within a municipality that is a member of the Cape Cod and Islands Water Protection Fund established under [section 19 of chapter 29C](#) at a rate of 2.75 per cent of the total amount of rent for each such occupancy; provided, however, that all revenues received from the excise under this section shall be credited to the Cape Cod and Islands Water Protection Fund. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent. An operator shall pay the excise due to the Cape Cod and Islands Water Protection Fund to the commissioner at the same time and in the same manner as the excise due to the commonwealth.

Credits

Added by [St.2018, c. 337, § 6, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 3C, MA ST 64G § 3C

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M.G.L.A. 64G § 3D

§ 3D. Community impact fees

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, [Secs. 14](#) and 15A as added by 2019, 5, Sec. 37.]>

(a) A city or town that accepts [section 3A](#) may, by a separate vote and in the same manner of acceptance as set forth in said [section 3A](#), impose a community impact fee of not more than 3 per cent of the total amount of rent upon each transfer of occupancy of a professionally managed unit that is located within that city or town.

(b) A city or town that votes to impose a community impact fee under subsection (a) may, by a separate additional vote and in the same manner of acceptance as set forth in [section 3A](#), also impose the community impact fee upon each transfer of occupancy of a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence.

(c) An operator shall pay the community impact fees imposed under this section to the commissioner at the same time and in the same manner as the excise due to the commonwealth under [section 3](#). All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall, not less than quarterly, be distributed, credited and paid by the state treasurer upon certification of the commissioner to the city or town. A city or town shall dedicate not less than 35 per cent of the community impact fees collected under this section to affordable housing or local infrastructure projects.

Credits

Added by [St.2018, c. 337, § 6](#), as amended by [St.2019, c. 5, § 33](#), eff. Mar. 28, 2019.

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§ 3D. Community impact fees, MA ST 64G § 3D

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M.G.L.A. 64G § 4

§ 4. Reimbursement for excise by occupant

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

Except as provided in [section 13](#), reimbursement for the excise imposed under this chapter shall be paid by the occupant of any such room to the operator and each operator shall add to the rent and collect from the occupant the full amount of the excise imposed by this chapter or an amount equal as nearly as possible or practical to the average equivalent thereof and such excise shall be a debt from the occupant to the operator when so added to the rent and shall be recoverable at law in the same manner as other debts.

Credits

Added by St.1966, c. 14, § 25. Amended by [St.2018, c. 337, § 6, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 4, MA ST 64G § 4

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M.G.L.A. 64G § 5

§ 5. Separate statement and charge of amount of excise

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

The amount of the excise collected by the operator from the occupant pursuant to this chapter shall be stated and charged separately from the rent and shown separately on any record of the excise at the time the transfer of occupancy is made or on any evidence of such transfer issued or used by the operator.

Credits

Added by St.1966, c. 14, § 25. Amended by [St.2018, c. 337, § 6, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 5, MA ST 64G § 5

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M.G.L.A. 64G § 6

§ 6. Certificate of registration

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

A person shall not operate a bed and breakfast establishment, hotel, lodging house, short-term rental or motel unless a certificate of registration has been issued to the person in accordance with [section 67 of chapter 62C](#).

Credits

Added by St.1966, c. 14, § 25. Amended by St.1976, c. 415, § 71; [St.1988, c. 31, § 5](#); [St.2018, c. 337, § 6, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 6, MA ST 64G § 6

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M.G.L.A. 64G § 6A

§ 6A. Unlawful practices under section 4 of chapter 151B prohibited

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

No person subject to this chapter shall engage in an unlawful practice under [section 4 of chapter 151B](#).

Credits

Added by [St.2018, c. 337, § 6, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 6A, MA ST 64G § 6A
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M.G.L.A. 64G § 7

§ 7. Repealed, 1976, 415, Sec. 111

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M.G.L.A. 64G § 7A

§ 7A. Worthless accounts; abatement

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

An operator who has paid to the commissioner an excise pursuant to [section 3](#) upon an account later determined to be worthless shall be entitled to an abatement of the excise paid on the worthless account. A claim for abatement shall be filed not later than April 15 annually and shall cover the amount of the excise on accounts determined to be worthless in the prior calendar year.

An operator who recovers an excise on an account determined to be worthless and for which an application for abatement has been filed shall report and include the same in a monthly return at the time of recovery.

Credits

Added by St.1970, c. 699. Amended by St.1976, c. 415, § 72; [St.2018, c. 337, § 7, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 7A, MA ST 64G § 7A
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M.G.L.A. 64G § 7B

§ 7B. Personal and individual liability for excises required to be paid by this chapter; misrepresentation of exemption

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

An operator who fails to pay to the commissioner money required to be paid by this chapter shall be personally and individually liable therefor to the commonwealth. As used in this section, the term “operator” shall include an officer or employee of a corporation or a member or employee of a partnership or a limited liability company who, as such officer, employee or member, is under a duty to pay the excises imposed by this chapter.

An operator who misrepresents to an intermediary that the transfer of occupancy of the operator’s property is exempt from the excise imposed by [sections 3, 3A and 3C](#) and the community impact fee imposed by [section 3D](#) shall be liable for any unpaid excise under said [sections 3, 3A and 3C](#) and the community impact fee imposed by said [section 3D](#) and shall be deemed to have committed an unfair trade practice under chapter 93A in making such a misrepresentation to the intermediary.

Credits

Added by St.1972, c. 523, § 2. Amended by [St.2005, c. 163, § 30, eff. Dec. 8, 2005](#); [St.2018, c. 337, § 7, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 7B, MA ST 64G § 7B

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M.G.L.A. 64G § 8

§§ 8 to 10. Repealed, 1976, 415, Sec. 111

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M.G.L.A. 64G § 9

§§ 8 to 10. Repealed, 1976, 415, Sec. 111

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M.G.L.A. 64G § 10

§§ 8 to 10. Repealed, 1976, 415, Sec. 111

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M.G.L.A. 64G § 11

§ 11. Repealed, 1977, 363A, Sec. 62

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M.G.L.A. 64G § 12

§ 12. Excise tax exemption for U.S. military employees traveling on military orders

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

No excise shall be imposed under this chapter upon the transfer of occupancy of a room in a hotel, lodging house, short-term rental or motel if the occupant is an employee of the United States military traveling on official United States military orders that encompass the date of such occupancy. Each operator shall maintain such records as the commissioner shall require to substantiate exemptions claimed under this section.

Credits

Added by [St.1997, c. 43, § 64](#). Amended by [St.2018, c. 337, § 8, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 12, MA ST 64G § 12
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M.G.L.A. 64G § 13

§ 13. Collection of rent by intermediary; collection and remittance of excise by intermediary

Effective: March 28, 2019

[Currentness](#)

<[Subsection (a) effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

(a) An operator may elect to allow an intermediary to collect rent or facilitate the collection or payment of rent on its behalf through a written agreement on an accommodation subject to the excise under this chapter. An intermediary that enters into a written agreement with the operator to collect rent or facilitate the collection or payment of rent on behalf of the operator of an accommodation subject to the excise under this chapter shall: (i) apply for and obtain a certificate of registration from the commissioner in accordance with [section 67 of chapter 62C](#) on behalf of the operator; (ii) assess, collect, report and remit the excise to the commissioner as described for operators in [sections 3, 3A, 3B, 3C, 5, 7A, 7B and 12](#); (iii) assess, collect and remit the community impact fee to the commissioner as described for operators in [section 3D](#); (iv) maintain records of any excises collected that have been remitted to the commissioner and shall make these records available to the department upon request; (v) ensure that the operator is registered pursuant to said section 67 of said chapter 62C prior to the intermediary collecting any rent from an occupant or facilitating the collection or payment of rent on behalf of an operator; and (vi) notify the operator that the operator must comply with all applicable municipal, state and federal laws including, but not limited to, the collection and remittance of required excises. The certificate of registration obtained from the commissioner pursuant to this subsection shall identify and be in the name of the individual operator, not the intermediary.

(b) An intermediary collecting and remitting the excise on behalf of an operator shall provide notification within a reasonable time to the operator that the excise has been collected and remitted to the commissioner pursuant to [section 3](#). The notification may be delivered in hand or by mail or conveyed by electronic message, mobile or smart phone application or another similar electronic process, digital media or communication portal. An operator shall not be responsible for collecting and remitting the excise on a transaction for which the operator has received notification from an intermediary that the excise has been collected and remitted to the commissioner on their behalf.

(c) The intermediary shall not be liable for faults in collecting or remitting the excise proximately caused by the intermediary's reasonable reliance on representations made to it by the operator about the nature of the property being rented, the duration of the occupancy or other similar misrepresentations made by the operator to the intermediary. The operator shall be liable for any unpaid excise resulting from any such misrepresentation. An intermediary shall not be liable for any over collection of the excise if the excise collected was remitted to the commissioner and the over collection resulted from the

§ 13. Collection of rent by intermediary; collection and remittance..., MA ST 64G § 13

intermediary's reasonable reliance on the operator's representations about the nature of the property being rented or the nature of the occupancy or whether such property was exempt from the excise. The operator shall be liable for monetary damages to the occupant resulting from any such misrepresentations.

Credits

Added by [St.2018, c. 337, § 8](#), as amended by St.2019, c. 5, §§ 34, 35, eff. Mar. 28, 2019.

M.G.L.A. 64G § 13, MA ST 64G § 13
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M.G.L.A. 64G § 14

§ 14. Regulation of operators by cities or towns

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

A city or town, by ordinance or by-law, may regulate operators registered pursuant to [section 67 of chapter 62C](#) and impose penalties for the violation of such an ordinance or by-law. A city or town, by ordinance or by-law, may:

(i) regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;

(ii) require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a certificate of registration issued to an operator in accordance with [section 67 of chapter 62C](#) in lieu of requiring an operator to obtain a local license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;

(iii) require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices;

(iv) require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under this section shall be charged to and solely paid by the operator under this section; provided further, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;

(v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this section; provided, however, that a

§ 14. Regulation of operators by cities or towns, MA ST 64G § 14

city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance or bylaw shall notify the commissioner of revenue of the suspension or termination; and

(vi) establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.

Notwithstanding any ordinance or by-law adopted by a city or town pursuant to this section, an operator of a short-term rental shall post inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.

Nothing in this section shall preclude a city or town from publishing a public registry of all short-term rental accommodations located within that city or town offered for rent by operators who are registered in accordance with [section 67 of chapter 62C](#). A city or town may determine what relevant information shall be listed, including where the accommodation is located.

Credits

Added by [St.2018, c. 337, § 8, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 14, MA ST 64G § 14
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M.G.L.A. 64G § 15

§ 15. Prohibition on short-term rentals by homeowner's association agreement, rental agreement, or other restriction, covenant, etc.

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

Nothing in this chapter shall confer a right to lease, sublease or otherwise offer a residential unit as a short-term rental where such use is prohibited by a homeowner's association agreement or requirements, a rental agreement or any other restriction, covenant, requirement or enforceable agreement.

Credits

Added by [St.2018, c. 337, § 8, eff. Mar. 28, 2019.](#)

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M.G.L.A. 64G § 16

§ 16. Short-term rental of units that are subject to rent control provisions

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

For residential units subject to rent control provisions, operators of short-term rentals shall charge not more than the prorated maximum amount allowed.

Credits

Added by [St.2018, c. 337, § 8, eff. Mar. 28, 2019.](#)

M.G.L.A. 64G § 16, MA ST 64G § 16
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M.G.L.A. 64G § 17

§ 17. Report on the economic activity of short-term rentals rented for occupancy through a hosting platform or intermediary

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

The commissioner shall annually publish a report on the economic activity of short-term rentals in the commonwealth rented for occupancy through a hosting platform or intermediary. The commissioner may require a hosting platform, intermediary or operator of a short-term rental to submit to the department of revenue, in a form approved by the commissioner, information necessary to compile the report including, but not limited to: (i) the aggregate rent paid by all occupants during the reporting period; (ii) the total amount of revenue collected from the excise on the transfer of occupancy of the short-term rentals; and (iii) the total amount of revenue collected from the local excise on the transfer of occupancy of the short-term rentals.

The department shall make available any data set used pursuant to this section to a regional planning agency, municipality or other public agency requesting such information; provided, however, that the department shall utilize the practices that are necessary to prevent the public disclosure of personal information regarding operators and occupants. The department shall annually publish local summary statistics on its website. The department shall take all measures necessary to protect the confidentiality and security of an operator's personal tax information from any disclosure pursuant to this section.

Credits

Added by [St.2018, c. 337, § 8, eff. Mar. 28, 2019](#).

M.G.L.A. 64G § 17, MA ST 64G § 17
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M.G.L.A. 64G § 18

§ 18. Rules and regulations

Effective: March 28, 2019

[Currentness](#)

<[Text of section effective as provided by 2018, 337, Sec. 15A as added by 2019, 5, Sec. 37.]>

The commissioner shall promulgate rules and regulations for assessing, reporting, collecting, remitting and enforcing the room occupancy excise pursuant to this chapter.

Credits

Added by [St.2018, c. 337, § 8, eff. Mar. 28, 2019.](#)

M.G.L.A. 64G § 18, MA ST 64G § 18

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