

HOUSE No. 4841

The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2400) of the House Bill regulating and insuring short-term rentals (House, No. 4327), reports recommending passage of the accompanying bill (House, No. 4841). July 29, 2018.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act regulating and insuring short-term rentals.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 23A of the General Laws is hereby amended by adding the
2 following section:-

3 Section 68. (a) The executive office of housing and economic development, in
4 consultation with the executive office of technology services and security and the department of
5 revenue, shall establish and maintain a registry for all operators under chapter 64G who file an
6 application and are issued a certificate of registration in accordance with section 67 of chapter
7 62C.

8 (b) The executive office of housing and economic development shall promulgate
9 regulations, in accordance with section 2 of chapter 30A, that are necessary to: (i) develop and
10 implement a registry that is accessible and available to the public; and (ii) support the
11 competitive operation of the traditional lodging industry, short-term rental industry and hosting
12 platforms to operate competitively in the commonwealth. The regulations shall require that a
13 public hearing be held and that a small business impact statement be filed.

14 (c) The executive office of housing and economic development shall, in developing
15 regulations to implement the registry, consider: (i) existing practices of peer states; (ii) data
16 security practices, protocols and standards; (iii) technological feasibility of existing digital
17 systems, including the feasibility of developing and maintaining a searchable online directory;
18 (iv) information required to be collected and maintained for operators in the registry, which shall,
19 at a minimum, include a list of legal addresses for accommodations offered for rent by operators
20 who are registered in accordance with section 67 of chapter 62C; (v) any forms or records
21 necessary to implement this section and meet such requirements under this chapter and chapter
22 64G; (vi) practices utilized to disclose or report information to cities and towns by request; (vii)
23 impacts on the traditional lodging industry, short-term rental industry and hosting platforms;
24 (viii) the fiscal impact to the commonwealth; and (ix) any relevant federal or state laws and
25 regulations.

26 The executive office of housing and economic development shall establish procedures
27 and protocols to protect the confidentiality and security of an operator's personal information
28 and tax information and prohibit the disclosure of such personal information and tax information
29 maintained pursuant to this section.

30 SECTION 2. Chapter 29C of the General Laws is hereby amended by adding the
31 following 2 sections:-

32 Section 19. There shall be a separate fund to be known as the Cape Cod and Islands
33 Water Protection Fund. The fund shall be subject to this chapter, except as otherwise provided in
34 this section. There shall be credited to the fund revenue from appropriations or other money
35 authorized by the general court and specifically designated to be credited to the fund including,

36 but not limited to, revenues received under the excise imposed under section 3C of chapter 64G,
37 any investment income earned on the fund's assets and all other sources, each source being
38 tracked separately for accounting purposes as of June 30 of each year.

39 The trust shall hold the fund in an account separate from other funds of the trust.
40 Proceeds of the fund shall not be used to offset or otherwise replace contract assistance funds or
41 reserve funds used for pool financing. The trust shall apply and disburse amounts credited to the
42 fund, without further appropriation, to provide subsidies and other assistance, which may include
43 principal forgiveness, to local governmental units and other eligible borrowers in the payment of
44 debt service costs on loans and other forms of financial assistance made by the trust for water
45 pollution abatement projects in municipalities that are members of the fund. Each municipality
46 within Barnstable or Nantucket counties or within the county of Dukes County shall be a
47 member of the fund if it is subject to: (i) an area wide wastewater management plan under
48 section 208 of the federal Clean Water Act, 33 U.S.C. 1288; or (ii) a suitable equivalent plan
49 determined by the department of environmental protection. Water pollution abatement projects
50 eligible for subsidies and other assistance under this section may include the utilization of
51 innovative strategies and alternative septic system technologies that result in nutrient reduction
52 for marine and fresh waters.

53 The fund may provide subsidies and other assistance as provided in this section with
54 respect to debt incurred prior to the establishment of the fund in the towns of Nantucket,
55 Edgartown, Tisbury, Oak Bluffs, Falmouth, Chatham and Provincetown and the city of
56 Barnstable for water pollution abatement projects apart from the trust.

57 Amounts credited to the fund shall be expended or applied only with the approval of the
58 Cape Cod and Islands Water Protection Fund Management Board established under section 20
59 and in a manner determined by the board, in addition to any approvals required under this
60 chapter. The board, subject to a memorandum of understanding with the department of
61 environmental protection, may direct the comptroller to transfer a specified amount not to exceed
62 10 per cent of the annual revenue deposited into the fund to the department for the department to
63 contract with a regional planning agency, institution of higher education or non-profit
64 corporation to evaluate and report on the efficacy of adaptive management measures to reduce
65 nitrogen pollution of coastal waterways undertaken pursuant to an area wide wastewater
66 management plan or a suitable equivalent plan, to monitor the water quality and watersheds of
67 areas subject to the study and to support further assessment and water quality modeling to further
68 refine area wide wastewater management plans or suitable equivalent plans in Barnstable and
69 Nantucket counties and the county of Dukes County. Any amounts remaining in the fund at the
70 end of a fiscal year shall be carried forward into the following fiscal year and shall remain
71 available for application and disbursement without further appropriation.

72 A municipality that is a member of the fund under this section may withdraw from the
73 fund by a $\frac{2}{3}$ vote of its legislative body; provided, however, that a municipality shall not
74 withdraw from the fund during the term of any financial assistance award from the fund to the
75 municipality. A municipality that has withdrawn from the fund shall not have representation on
76 the Cape Cod and Islands Water Protection Fund Management Board established under section
77 20. A municipality that has withdrawn from the fund and votes, by majority vote of its legislative
78 body, to return to the fund shall not receive money from the fund until not less than 2 years from
79 the date of its vote to return.

80 Section 20. There shall be a Cape Cod and Islands Water Protection Fund Management
81 Board that shall consist of 1 person to be appointed by each board of selectmen or town council
82 in each municipality that is a member of the Cape Cod and Islands Water Protection Fund;
83 provided, however, that an appointee of a board of selectmen or town council shall be a member
84 of the respective appointing authority, a town manager, town administrator or other municipally
85 employed professional staff. The executive director of the Cape Cod commission, the executive
86 director of the Martha's Vineyard commission and the town manager of Nantucket shall serve as
87 non-voting ex-officio members of the board.

88 Each member of the management board shall serve for a term of 3 years and until a
89 successor is appointed and qualified and each member of the management board shall be eligible
90 for reappointment. Each member of the management board appointed to fill a vacancy on the
91 management board shall be appointed for the unexpired term of the vacant position. The
92 members of the management board shall select a member to serve as chairperson and vice-
93 chairperson for a term established by vote of the management board. The Cape Cod commission,
94 in consultation with the Martha's Vineyard commission, shall provide administrative and
95 technical support to the management board and may be compensated for its associated costs by
96 vote of the management board. The management board's duties shall be limited to determining
97 the method for subsidy allocation, including, but not limited to, an equitable distribution among
98 participating municipalities consistent with revenue deposited from each municipality into the
99 fund, and to ensuring that money from the Cape Cod and Islands Water Protection Fund is spent
100 only for the purposes in section 19.

101 SECTION 3. Section 1 of chapter 40U of the General Laws, as appearing in the 2016
102 Official Edition, is hereby amended by striking out, in line 5, the words "regulating the" and

103 inserting in place thereof the following words:- related to the use of property for short-term
104 rental use or regulating a.

105 SECTION 4. Section 16 of chapter 62C of the General Laws, as so appearing, is hereby
106 amended by inserting after subsection (g) the following subsection:-

107 (g^{1/2}) Notwithstanding subsection (g), the department of revenue shall promulgate
108 regulations to minimize the administrative burden relative to filing returns under said subsection
109 (g) on operators who offer their accommodations to the public for not less than 1 day in 5
110 separate months, or fewer, in the taxable year. The regulations may authorize an operator to file a
111 return only for a month that the operator's accommodation is offered to the public.

112 SECTION 5. Subsection (b) of section 21 of said chapter 62C, as amended by section 3
113 of chapter 90 of the acts of 2018, is hereby amended by adding the following 2 paragraphs:-

114 (29) the disclosure of information necessary for administration of the community impact
115 fee imposed pursuant to section 3D of chapter 64G.

116 (30) the disclosure of information to the executive office of housing and economic
117 development necessary for the establishment and maintenance of a registry pursuant to section
118 68 of chapter 23A.

119 SECTION 6. Chapter 64G of the General Laws is hereby amended by striking out
120 sections 1 to 6, inclusive, as appearing in the 2016 Official Edition, and inserting in place thereof
121 the following 11 sections:-

122 Section 1. As used in this chapter, the following words shall have the following meanings
123 unless the context clearly requires otherwise:

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

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

128 “Commissioner”, the commissioner of revenue.

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

134 “Hotel”, a building used for the feeding and lodging of guests licensed or required to be
135 licensed under section 6 of chapter 140.

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

142 “Lodging house”, a house licensed or required to be licensed under section 23 of chapter
143 140 and where lodgings are rented to not less than 4 people who shall not be within the second
144 degree of kindred to the owner or operator of such lodging house.

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

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

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

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

163 “Operator’s agent”, a person who on behalf of an operator of a bed and breakfast
164 establishment, hotel, motel, short-term rental or lodging house: (i) manages the operation or
165 upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent;

166 provided, however, that an “operator’s agent” shall include, but not be limited to, a property
167 manager, property management company or real estate agent.

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

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

175 “Rent”, the total consideration paid by or on behalf of an occupant, including any service,
176 cleaning or other charge, to an operator or an intermediary collecting and remitting the excise on
177 behalf of an operator under section 13 for occupancy, valued in money, whether received in
178 money or otherwise, including all receipts, cash, credits and property or services of any kind or
179 nature.

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

186 Section 2. This chapter shall not include: (i) lodging accommodations at a federal, state or
187 municipal institution; (ii) lodging accommodations, including dormitories, at religious,

188 charitable, educational and philanthropic institutions; provided, however, that the exemption
189 allowed shall not apply to accommodations provided by any such institution at a hotel or motel
190 generally open to the public and operated by the institution; (iii) privately-owned and operated
191 convalescent homes or homes for the aged, infirm, indigent or chronically ill; (iv) religious or
192 charitable homes for the aged, infirm, indigent or chronically ill; (v) summer camps for children
193 up to 18 years of age or developmentally disabled individuals; provided, however, that a summer
194 camp that offers its facilities off season to individuals 60 years of age or older for a period of not
195 more than 30 days in a calendar year shall not lose its exemption under this section; (vi) bed and
196 breakfast homes; (vii) lodging accommodations provided to seasonal employees by employers;
197 (viii) alcohol and drug free housing that is certified pursuant to section 18A of chapter 17; (ix)
198 tenancies at will or month-to-month leases; and (x) time-shares, as defined in section 2 of chapter
199 183B.

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

209 Section 3. An excise shall be imposed upon the transfer of occupancy of a room or unit in
210 a bed and breakfast establishment, hotel, lodging house, short-term rental or motel by an operator

211 at the rate of 5 per cent of the total amount of rent for each such occupancy. An excise shall not
212 be imposed if the total amount of rent is less than \$15 per day or its equivalent.

213 The operator shall pay the excise to the commissioner at the time provided for filing the
214 return required under section 16 of chapter 62C.

215 Section 3A. A city or town that accepts this section may impose a local excise upon the
216 transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house,
217 short-term rental or motel located within that city or town by an operator at a rate of not more
218 than 6 per cent of the total amount of rent for each such occupancy; provided, however, that the
219 city of Boston may impose such local excise upon the transfer of occupancy of a room in a bed
220 and breakfast establishment, hotel, lodging house, short-term rental or motel located within the
221 city by an operator at the rate of not more than 6.5 per cent of the total amount of rent of each
222 such occupancy. No excise shall be imposed if the total amount of rent is less than \$15 per day or
223 its equivalent or if the accommodation is exempt under section 2. An operator shall pay the local
224 excise imposed under this section to the commissioner at the same time and in the same manner
225 as the excise due to the commonwealth. All sums received by the commissioner under this
226 section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly
227 be distributed, credited and paid by the state treasurer upon certification of the commissioner to
228 each city or town that has adopted this section in proportion to the amount of such sums received
229 from the transfer of occupancy in each such city or town. Acceptance of this section shall be: (i)
230 by a majority vote of the city council with the approval of the mayor in the case of a city with a
231 Mayor; (ii) by a majority vote of the city council in every other city; (iii) by a majority vote of
232 the annual town meeting or a special meeting called for that purpose in the case of a municipality
233 with a town meeting form of government; or (iv) by a majority vote of the town council in the

234 case of a municipality with a town council form of government. This section shall take effect on
235 the first day of the calendar quarter following 30 days after its acceptance or on the first day of a
236 later calendar quarter as the city or town may designate. The city or town, in accepting this
237 section, shall not revoke or otherwise amend the applicable local tax rate more often than once in
238 a 12-month period.

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

242 Section 3B. Notwithstanding sections 9 and 10 of chapter 152 of the acts of 1997, the
243 convention center financing fee imposed upon the transfer of occupancy of a short-term rental in
244 the cities of Boston, Cambridge, Springfield, Worcester, West Springfield and Chicopee shall
245 revert half to the General Fund and half to the city in which the short-term rental was transferred.

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

256 Section 3D. (a) A city or town that accepts section 3A may, by a separate vote and in the
257 same manner of acceptance as set forth in section 3A, impose upon an operator a community
258 impact fee of not more than 3 per cent of the total amount of rent for each transfer of occupancy
259 of a professionally managed unit that is located within that city or town.

260 (b) A city or town that votes to impose a community impact fee under subsection (a)
261 may, by a separate additional vote and in the same manner of acceptance as set forth in section
262 3A, also impose the community impact fee upon each transfer of occupancy of a short-term
263 rental unit that is located within a two-family or three-family dwelling that includes the
264 operator's primary residence.

265 (c) All community impact fees under this section shall be paid monthly by the operator to
266 the municipality. A city or town shall dedicate not less than 35 per cent of the community impact
267 fees collected under this section to affordable housing or local infrastructure projects.

268 Section 4. Except as provided in section 13, reimbursement for the excise imposed under
269 this chapter shall be paid by the occupant of any such room to the operator and each operator
270 shall add to the rent and collect from the occupant the full amount of the excise imposed by this
271 chapter or an amount equal as nearly as possible or practical to the average equivalent thereof
272 and such excise shall be a debt from the occupant to the operator when so added to the rent and
273 shall be recoverable at law in the same manner as other debts.

274 Section 5. The amount of the excise collected by the operator from the occupant pursuant
275 to this chapter shall be stated and charged separately from the rent and shown separately on any
276 record of the excise at the time the transfer of occupancy is made or on any evidence of such
277 transfer issued or used by the operator.

278 Section 6. A person shall not operate a bed and breakfast establishment, hotel, lodging
279 house, short-term rental or motel unless a certificate of registration has been issued to the person
280 in accordance with section 67 of chapter 62C.

281 Section 6A. No person subject to this chapter shall engage in an unlawful practice under
282 section 4 of chapter 151B.

283 SECTION 7. Said chapter 64G is hereby further amended by striking out sections 7A and
284 7B, as so appearing, and inserting in place thereof the following 2 sections:-

285 Section 7A. An operator who has paid to the commissioner an excise pursuant to section
286 3 upon an account later determined to be worthless shall be entitled to an abatement of the excise
287 paid on the worthless account. A claim for abatement shall be filed not later than April 15
288 annually and shall cover the amount of the excise on accounts determined to be worthless in the
289 prior calendar year.

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

293 Section 7B. An operator who fails to pay to the commissioner money required to be paid
294 by this chapter shall be personally and individually liable therefor to the commonwealth. As used
295 in this section, the term “operator” shall include an officer or employee of a corporation or a
296 member or employee of a partnership or a limited liability company who, as such officer,
297 employee or member, is under a duty to pay the excises imposed by this chapter.

298 An operator who misrepresents to an intermediary that the transfer of occupancy of the
299 operator's property is exempt from the excise imposed by sections 3, 3A, 3C and 3D shall be
300 liable for any unpaid excise under said sections 3, 3A, 3C and 3D and shall be deemed to have
301 committed an unfair trade practice under chapter 93A in making such a misrepresentation to the
302 intermediary.

303 SECTION 8. Said chapter 64G is hereby further amended by striking out section 12, as
304 so appearing, and inserting in place thereof the following 7 sections:-

305 Section 12. No excise shall be imposed under this chapter upon the transfer of occupancy
306 of a room in a hotel, lodging house, short-term rental or motel if the occupant is an employee of
307 the United States military traveling on official United States military orders that encompass the
308 date of such occupancy. Each operator shall maintain such records as the commissioner shall
309 require to substantiate exemptions claimed under this section.

310 Section 13. (a) An operator may elect to allow an intermediary to collect rent or facilitate
311 the collection or payment of rent on its behalf through a written agreement on an accommodation
312 subject to the excise under this chapter. An intermediary that enters into a written agreement with
313 the operator to collect rent or facilitate the collection or payment of rent on behalf of the operator
314 of an accommodation subject to the excise under this chapter shall: (i) apply for and obtain a
315 certificate of registration from the commissioner in accordance with section 67 of chapter 62C on
316 behalf of the operator; (ii) assess, collect, report and remit the excise to the commissioner as
317 described for operators in sections 3, 3A, 3B, 5, 7A, 7B and 12; (iii) assess, collect and remit the
318 community impact fee to the municipality as described for operators in section 3D; (iv) maintain
319 records of any excises collected that have been remitted to the commissioner and shall make

320 these records available to the department upon request; (v) ensure that the operator is registered
321 pursuant to said section 67 of said chapter 62C prior to permitting such operator to list or offer an
322 accommodation for rent through the use of the intermediary; and (vi) notify the operator that the
323 operator must comply with all applicable municipal, state and federal laws including, but not
324 limited to, the collection and remittance of required excises. The certificate of registration
325 obtained from the commissioner pursuant to this subsection shall identify and be in the name of
326 the individual operator, not the intermediary.

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

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

343 occupancy or whether such property was exempt from the excise. The operator shall be liable for
344 monetary damages to the occupant resulting from any such misrepresentations.

345 Section 14. A city or town, by ordinance or by-law, may regulate operators registered
346 pursuant to section 67 of chapter 62C and impose penalties for the violation of such an ordinance
347 or by-law. A city or town, by ordinance or by-law, may:

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

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

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

362 (iv) require properties or premises controlled, occupied, operated, managed or used by
363 operators as an accommodation subject to the excise under this chapter to undergo health and
364 safety inspections; provided, however, that the cost of any inspection conducted under this

365 section shall be charged to and solely paid by the operator under this section; provided further,
366 that after any initial health and safety inspection, the city or town may determine the frequency
367 of any subsequent inspections;

368 (v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to
369 this section; provided, however, that a city or town that suspends or terminates an operator's
370 right to operate an accommodation for a violation of any ordinance or bylaw shall notify the
371 commissioner of revenue of the suspension or termination; and

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

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

378 Section 15. Nothing in this chapter shall confer a right to lease, sublease or otherwise
379 offer a residential unit as a short-term rental where such use is prohibited by a homeowner's
380 association agreement or requirements, a rental agreement or any other restriction, covenant,
381 requirement or enforceable agreement.

382 Section 16. For residential units subject to rent control provisions, operators of short-term
383 rentals shall charge not more than the prorated maximum amount allowed.

384 Section 17. The commissioner shall annually publish a report on the economic activity of
385 short-term rentals in the commonwealth rented for occupancy through a hosting platform or

386 intermediary. The commissioner may require a hosting platform, intermediary or operator of a
387 short-term rental to submit to the department of revenue, in a form approved by the
388 commissioner, information necessary to compile the report including, but not limited to: (i) the
389 aggregate rent paid by all occupants during the reporting period; (ii) the total amount of revenue
390 collected from the excise on the transfer of occupancy of the short-term rentals; and (iii) the total
391 amount of revenue collected from the local excise on the transfer of occupancy of the short-term
392 rentals.

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

400 Section 18. The commissioner shall promulgate rules and regulations for assessing,
401 reporting, collecting, remitting and enforcing the room occupancy excise pursuant to this
402 chapter.

403 SECTION 9. Chapter 175 of the General Laws is hereby amended by inserting after
404 section 4E the following section:-

405 Section 4F. (a) As used in this section, the terms “hosting platform”, “operator” and
406 “short-term rental” shall have the same meanings as under section 1 of chapter 64G unless the
407 context clearly requires otherwise.

408 (b) An operator shall maintain liability insurance of not less than \$1,000,000 to cover
409 each short-term rental, unless such short-term rental is offered through a hosting platform that
410 maintains equal or greater coverage. Such coverage shall defend and indemnify the operator and
411 any tenants or owners in the building for bodily injury and property damage arising from the
412 short-term rental.

413 (c) Prior to an operator offering a short-term rental through the use of a hosting platform,
414 the hosting platform shall provide notice to the operator that standard homeowners or renters
415 insurance may not cover property damage or bodily injury to a third-party arising from the short-
416 term rental.

417 (d) Insurers that write homeowners and renters insurance may exclude any and all
418 coverage afforded under the policy issued to a homeowner or lessee for any claim resulting from
419 the rental of any accommodation under chapter 64G. Insurers that exclude the coverage
420 described in this section shall not have a duty to defend or indemnify any claim expressly
421 excluded by a policy. Nothing under this section shall preclude an insurer from providing
422 coverage for short-term rentals.

423 (e) Any policy or policy form intended to cover operators of short-term rentals from
424 liabilities, whether the policy or policy form is provided by a hosting platform or an operator
425 itself, shall be filed according to instructions provided by the division of insurance.

426 (f) An operator who intends to operate a short-term rental shall provide notice to any
427 insurer that writes a homeowners or renters insurance policy for the property where such short-
428 term rental is to be located of the operator's intent to operate such short-term rental.

429 SECTION 10. There shall be a commission to study the feasibility and potential for use
430 of lodging units within the hospitality industry, including hotel, motel, bed and breakfast and
431 short-term rentals, as resources to increase the availability of emergency shelter for individuals
432 and families displaced during extreme weather events or other states of emergency declared by
433 the governor. The commission shall study and make recommendations relating to: (i) ways to
434 maintain up-to-date inventories of units available for shelter during emergencies; (ii) networks to
435 alert local officials about the availability of hospitality industry units as emergency shelter; (iii)
436 platforms and protocol for communication and coordination between the hospitality industry and
437 state and local officials during emergencies; and (iv) any other factors deemed relevant by the
438 chair of the commission.

439 The commission shall consist of: the director of the Massachusetts emergency
440 management agency or a designee, who shall serve as chair; 2 members appointed by the
441 Massachusetts Lodging Association, Inc.; 3 members appointed by the Massachusetts Municipal
442 Association, Inc., 2 of whom shall have experience in local emergency planning and
443 management and 1 of whom shall have experience in municipal licensure processes; and 3
444 members appointed by the governor, 1 of whom shall be a representative of the department of
445 revenue, 1 of whom shall be a representative of a hosting platform, as defined in section 1 of
446 chapter 64G of the General Laws, and 1 of whom shall be a representative of a non-profit entity
447 with experience in national-level emergency management and relief.

448 The commission shall report the results of its study, together with drafts of recommended
449 legislation, if any, by filing the report with the clerks of the house of representatives and senate
450 not later than July 31, 2019.

451 SECTION 11. The transfer of occupancy of a room in a bed and breakfast establishment,
452 hotel, lodging house, short-term rental or motel in a municipality that becomes a member of the
453 Cape Cod and Islands Water Protection Fund under section 19 of chapter 29C of the General
454 Laws after December 1, 2018 shall be subject to the excise under section 3C of chapter 64G of
455 the General Laws on the first day of a calendar quarter after it has joined the fund, as the
456 municipality may designate.

457 SECTION 12. Notwithstanding section 19 of chapter 29C of the General Laws, a
458 municipality included in the Cape Cod and Islands Water Protection Fund shall not withdraw
459 from the fund for 1 year after the effective date of this act.

460 SECTION 13. The executive office of housing and economic development shall
461 promulgate regulations necessary to implement a registry pursuant to section 68 of chapter 23A
462 of the General Laws not later than June 30, 2019.

463 SECTION 14. Sections 3, 3A, 3B, 3C and 3D of chapter 64G of the General Laws shall
464 take effect for transfers of occupancies of short-term rentals that commence on or after January
465 1, 2019 and for which contracts with occupants were entered into on or after November 1, 2018.

466 SECTION 15. A city or town that accepted section 3A of chapter 64G of the General
467 Laws before January 1, 2019 shall be deemed to have accepted said section 3A of said chapter
468 64G for the purposes of this act.

469 SECTION 16. Section 9 shall take effect on January 1, 2019.