



# DLS

DIVISION OF LOCAL SERVICES  
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

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## Massachusetts Municipal Lawyers Association (MMLA) Meeting

*February 28, 2019*

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

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

## Generally

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

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

## Generally

- State room occupancy excise
  - 5.7% of rent
    - Definition of rent in 64G:1 (amended under new law; further amendments proposed in H.74 – Governor’s 2019 Supplemental Budget)
  - Excise is paid to DOR by operator (proprietor)
  - Operators must register with DOR
    - Including those who transfer occupancies of short-term rentals for 14 days or less per calendar year

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

- Impact on city/town tax rate
  - Estimated receipts for purposes of setting the city/town tax rate under 59:23 may be impacted when city/town:
    - » Accepts 64G:3A and establishes a local excise for the first time
    - » Amends its current local excise rate
    - » Revokes its local excise
  - Contact DLS Databank for estimated revenue if initial adoption (Contact info at end of presentation)
  - Consult with DLS Bureau of Accounts representative for guidance on the impact on tax rate

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

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

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

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

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

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

- Paid monthly by the operator directly to city/town - 64G:3D(c)
  - Legislation pending to require payment to DOR
- 35% of impact fee must be dedicated to “affordable housing or local infrastructure projects” - 64G:3D(c)
  - Establish special revenue fund - receipts reserved for appropriation for “affordable housing or local infrastructure projects”
  - Legislative body may vote to dedicate > required 35%
    - » Dedication vote effective July 1 following vote until amended by later legislative body vote (also effective next following July 1)
- Impact fee that is not dedicated is general fund revenue

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

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

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

## Cape Cod and Islands Water Protection Fund

- 2.75% additional excise in cities/towns within Barnstable, Nantucket and Dukes County, if city/town is subject to
  - Area wide wastewater management plan under s. 208 of federal Clean Water Act or
  - Equivalent plan determined by Dept. of Environmental Protection (DEP)
- 2.75% excise is paid by operator to DOR for transfer to Cape Cod and Islands Water Protection Fund
- Effective date is March 28, 2019, except for short-term rentals (effective July 1, 2019)
  - Legislation pending to amend effective date for all to July 1, 2019

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## Cape Cod and Islands Water Protection Fund

### — According to DEP

- Mainland Cape – All Barnstable County towns are currently subject to a section 208 area wide wastewater management plan and so all are members of the Fund
  - 2.75% additional excise will apply
- Island towns (Nantucket and Dukes County) are not currently members of the Fund; they will need to work with DEP to obtain its determination of a “suitable equivalent plan” to join the Fund
  - Effective date of excise for those becoming member of Fund after June 1 = 1<sup>st</sup> day of calendar quarter after joining Fund as “municipality may designate” (legislative body vote)
    - » Legislation pending to amend effective date



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## Cape Cod and Islands Water Protection Fund

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

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## H. 74 Governor's FY 19 Supplement Budget Proposals

- Change effective date to July 1, 2019 of following revised or new sections of G.L. c. 64G: 1 through 7B and 12 through 18 (Section 58)
- Further amend definition of “rent” (Section 21)
- Require payment of local option community impact fee to DOR for distribution to city/town (Section 22)
- Change effective date for those joining Cape Fund after June 1 to “first day of calendar quarter following 30 days after the municipality has joined the fund or on 1<sup>st</sup> day of later calendar quarter as municipality may designate” (Section 57)
  - Legislative body vote would not be required for effective date unless municipality wishes later calendar quarter effective date

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## Additional References/Information

- List of establishments who are registered with DOR is available through DLS Databank on request – contact [databank@dor.state.ma.us](mailto:databank@dor.state.ma.us)
  - City/town should update this information annually
- FAQs and Draft TIR - DOR website - <https://www.mass.gov/orgs/massachusetts-department-of-revenue>
- Division of Local Services - Local Option Webpage - <https://www.mass.gov/service-details/local-options-relating-to-property-taxation-cpa-meals-and-room-occupancy>
- Cape Cod Commission website - <http://www.capecodcommission.org/>
  - Regional Plans / Section 208 Plan