

A CHANGING LEGAL LANDSCAPE FOR SHORT-TERM PROPERTY RENTALS IN MISSOURI

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Since my review of [important considerations for short-term property rental hosts](#) in June 2016, the home sharing industry has continued its rapid growth. Approximately [124,000 guests booked property rentals in Missouri through Airbnb](#) in 2016, a 166% increase over the prior year, which resulted in Airbnb hosts collectively earning \$13.1 million.

This represents only a portion of the total rental activity, because it does not include other short-term property rental websites, such as [HomeAway](#), [VRBO](#) and [FlipKey](#). According to an Expedia spokesperson, the ["whole-home vacation rental ecosystem supports nearly 3,000 full-time, permanent jobs"](#) in Missouri. As the popularity of short-term property rentals increases, the legal landscape continues to evolve.

Local Law Updates

Short-Term Property Rental Laws

The most Airbnb bookings occurred in St. Louis and Kansas City, followed by Branson, Columbia, Springfield and Osage Beach/Lake of the Ozarks. While tourist destinations drive much of the

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demand for short-term rentals, many rental properties are not located within tourism districts. As a result, short-term rental properties can bring [tourism spending to areas that do not typically benefit from tourism revenue](#).

Many cities and counties throughout Missouri do not have regulations that directly address short-term property rentals. Some permit short-term property rentals, while others prohibit such activity. Interestingly, there is [not a particular region or type of city that is more likely to be friendly to short-term property rentals](#). Airbnb and other online home-sharing platforms are [collaborating with state and local governments](#) to assist in the development of host-friendly rules and regulations.

St. Louis

Short-Term Property Rental Law Update

The St. Louis region, with its many municipalities, continues to lack uniform regulations regarding short-term rental properties. Therefore, hosts should always check local ordinances for guidance, particularly as such ordinances are updated.

For example, the City of Crestwood, a municipality within St. Louis County, is currently reviewing an ordinance that would [prohibit short-term property rentals](#) because, according to the Crestwood City Administrator, the City wants,

“Stable residents living in the community, adding to the quality of life here, walking on the streets, obviously there’s a safety concern there, there’s a property value concern.”

Other municipalities, such as [Hazelwood and Ellisville](#) are also in the process of considering [restrictions on short-term property rentals](#).

Kansas City

Short-Term Property Rental Law Update

Despite being the [second most popular city in Missouri](#) to book short-term rentals through Airbnb in 2016, Kansas City has been recognized as one of the [“worst places” for short-term rentals by the National Association of Realtors](#) because the Kansas City zoning code does not allow property owners to rent a property for less than 30 days in a residential zoning district. As a result, hosts in Kansas City renting their properties for less than 30 days are [technically breaking the law](#).

In order to update laws in Kansas City to reflect the reality that many property owners currently [list their properties for rent on short-term property rental websites](#) and to address [complaints pertaining to increased transient activity](#), the City is considering a [proposed ordinance](#) that would legalize short-term property rentals, subject to compliance with certain regulations, including, for example, obtaining a rental permit, listing a host’s permit number in rental listings, paying a registration fee

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The draft ordinance proposes two types of permits for short-term rental properties:

- Type 1 for owner-occupied properties, and Type 2 for properties where hosts do not reside at their rental properties (as would be the case for investment properties).
- Type 1 permits would be limited to properties that are rented for a maximum of 90 days per calendar year; hosts would not be required to stay on the premises during guest rentals.
- The ordinance would impose different requirements on Type 1 and Type 2 permits.

Columbia

Short-Term Property Rental Law Update

The number of active rental properties listed on Airbnb in Columbia has grown by 355% since 2014. Short-term rentals are particularly attractive when there is increased demand for lodging in Columbia during Mizzou home football games and other University of Missouri events, such as homecoming, family weekend and graduation.

While the City of Columbia has a general rental dwelling ordinance, its regulations do not specifically address short-term property rentals. The City recommends that hosts register their rental properties, which would require property owners to pay a fee and pass an inspection.

Springfield

Short-Term Property Rental Law Update

While the City of Springfield has not passed any laws that directly address short-term property rentals, it passed an ordinance in 2015 that requires, among other things, property owners to register rental properties. Short-term property rental hosts in Springfield should review this ordinance, and comply with its requirements to the extent applicable to short-term property rentals.

Taxation of short-term property rentals in Springfield remains an open question, as some hosts are renting their properties without collecting or paying sales taxes or hotel/motel taxes.

State Law Updates

As the 99th Missouri General Assembly convened in Jefferson City in early 2017, House Speaker Todd Richardson remarked in his opening address that,

"Companies like HomeAway and Airbnb are revolutionizing the lodging industry, nearly everywhere but ."

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Therefore, he stressed that "it is past time that Missouri had statewide frameworks for disruptive technologies."

Short-Term Property Rental Laws

Since Speaker Richardson's remarks, several bills have already been proposed to address short-term property rentals throughout the State of Missouri.

H.B. 608: The Expedia Bill

[House Bill 608](#) and [Senate Bill 310](#), which initially contained substantially similar language, are making their way through the Missouri House of Representatives and Senate, respectively. These bills follow in the footsteps of the [Short Term Rental Freedom Act \(H.B. 2662\)](#), which did not survive the 2016 legislative session.

All these bills have the common goal of prohibiting Missouri cities and counties from enacting restrictive ordinances that prohibit or have the practical effect of prohibiting short-term property rentals.

As a result of lobbying from Expedia, the owner of VRBO and HomeAway, H.B. 608 is sometimes referred to as the "Expedia Bill."

As currently drafted, the Expedia Bill provides that any county, city, town, village or township in Missouri:

- Cannot enforce an ordinance or law that "expressly prohibits or has the practical effect of prohibiting" short-term property rentals
- Can impose "reasonable regulations" on short-term property rentals, so long as such regulations are designed to address any of the following:
 - Protection of the public's health and safety
 - Registration, permit or inspection fees
 - Posting or display requirements for licenses, permits, certificates, registrations or emergency contact information/procedures
 - Response time periods for nuisance complaints
 - Minimum age requirements for guests
 - Zoning requirements
 - Limiting or prohibiting rental properties from housing sexual offenders, or being used in connection with the sale of illegal drugs or adult-oriented commercial activity
 - Documentation evidencing that a host has obtained required tax certificates and licenses

Prior to renting a property, hosts would be required to **obtain a certificate of no tax due and a retail sales tax license** issued by the Missouri Department of Revenue.

Guests would be required to pay, and hosts would be required to collect, any applicable taxes,

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whether imposed by the State of Missouri or any local taxing authority. *Such taxes may include a sales tax, hotel and motel tax, occupancy tax, tourism tax or similar tax.*

In order to level the playing field between residential rental properties and hotels, local taxes assessed on residential rental properties would have to be assessed at the same rate as taxes assessed on hotels.

Importantly, the Expedia Bill would only apply to local ordinances enacted *after* April 1, 2018, so cities or counties would have an opportunity to quickly act to pass restrictive legislation prior to such date. Certain portions of the Expedia Bill that pertain to taxes would take effect on January 1, 2018.

Support & Opposition for the Expedia Bill

The passage of the Expedia Bill, in its current form, or any form at all, is far from certain, as various interest groups express their views in support and opposition.

The Missouri Hotel & Lodging Association, a hotel interest group that views short-term property rentals as a threat, due to increased competition and the perceived unfairness that short-term rental property owners are often not governed by the same set of rules as hotels, anticipates major changes to the Expedia Bill, including a requirement that hosts obtain a business license.

A business license requirement could indirectly impose other potentially burdensome requirements on hosts, such as compliance with the Adults with Disabilities Act.

The Missouri Municipal League and Municipal League of Metro St. Louis have voiced opposition to the Expedia Bill. There are some politicians who believe that local governments, which can address the concerns of local constituents, are better positioned to regulate short-term property rentals than the state government. Missouri REALTORS, an advocacy group for the real estate industry, has also come out against the Expedia Bill arguing that it creates more questions than answers.

Expedia and Americans for Prosperity, a business-friendly conservative political advocacy group, support the Expedia Bill. Missouri REALTORS initially supported the Expedia Bill, because a property that can be rented is thought to enhance property value. However, out of concern that the Expedia Bill (*if amended*) could require hosts to obtain a business license, as well as other reasons, Missouri REALTORS is now opposed to the Expedia Bill.

The Expedia Bill is not yet law, and could change considerably as it proceeds through the legislative process. Due to alleged misinformation being spread by opponents to the Expedia Bill, at least one legislator thinks that the Expedia Bill may be in jeopardy. The language of the Expedia Bill has already changed significantly since its introduction on January 12, 2017. If passed into law, the Expedia Bill would impact all short-term property hosts, as well as local governments, so it is important for all concerned parties to follow its status in order to remain in compliance with Missouri law.

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House Bill 632

H.B. 632 would amend R.S.Mo. § 137.016, which pertains to the classification of real property for taxation purposes. In *Shipman v. Dominion Hosp.*, 148 S.W.3d 821 (Mo. 2004), the Missouri Supreme Court *excluded* residential properties used primarily as lodging for transient guests from what could be classified as "residential property" for taxation purposes.

H.B. 632 provides that residential properties, including those used for transient lodging (such as a short-term rental properties), that otherwise qualify as residential properties under R.S.Mo. § 137.016.1, would be classified as residential properties for taxation purposes. Like the Expedia Bill, H.B. 632 is not yet law, and is subject to change.

Short-Term Property Rentals Moving Forward

Property owners should continue to keep in mind the important considerations for short-term property rental hosts, such as those pertaining to restrictive covenants, lease restrictions, taxes, insurance and risk management. The legal landscape for short-term property rentals will likely continue to change at a fast pace. As a result, to avoid inadvertently running afoul of newly promulgated restrictions and requirements, short-term property rental hosts are well advised to stay up-to-date on the latest laws.

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