

## OPLA RESEARCH REQUEST MEMO

**To:** Karen Nadeau, Legislative Analyst, Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-term Rentals

**From:** Kristin Brawn, Legislative Researcher

**Date:** September 22, 2022

**RE:** Other States' Short-Term Rental Laws

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Hi Karen,

You asked me to find out what states have enacted laws that apply to the regulation of short-term rentals (STRs) statewide. Several states, including Arizona, California, Colorado, Florida, Florida, Idaho, Indiana, Massachusetts, New York, Tennessee, Virginia, Washington and Wisconsin have enacted laws regarding STRs. In these states, the type of legislation that has been enacted includes the statewide registration/licensure of STRs, other statewide requirements of STRs, prohibitions on local bans of STRs, authorization of local regulation of STRs, prohibition of certain STRs and taxation of STRs.

### I. Statewide Registration/Licensure of STRs

#### A. Massachusetts

In 2019, Massachusetts enacted [Acts of 2018, Chapter 337](#), which requires all STR properties to be registered with the state's Executive Office of Housing and Economic Development, and directs the Office to oversee and implement the regulations for the statewide registry. The law also requires STR hosts to have at least \$1 million of liability insurance for each STR, unless a third-party platform already maintains equal or greater coverage for the host.

#### B. Florida

Florida law ([Fla. Stats. §§509.013, 509.241 and 509.242](#)) requires a "transient public lodging establishment," which is rented to guests more than 3 times in a calendar year for periods of less than 30 days or one calendar month, or which is advertised or held out to the public as a place regularly rented to guests, to obtain a license from the Florida Department of Business and Professional Regulation, Vacation Rental and Timeshare Project Licensing Division. These licenses fall under two main categories: Vacation Rental – Condominium, which is issued for a group of units or a singular unit in a condominium complex or a cooperative; or Vacation Rental – Dwelling, which includes single-family, two-family, three-family or four-family house or dwelling units that are not a timeshare project.

#### C. Wisconsin

Wisconsin law ([Wis. Stat. §66.1014](#)) requires any person who maintains, manages or operates an STR for more than 10 nights each year to obtain a license as a tourist rooming house from the state Department of Agriculture, Trade and Consumer Protection.

### II. Other Statewide Requirements of STRs

#### A. Washington

Washington law ([RCW 64.44.010](#) and [64.44.020](#)) includes transient accommodations as property subject to reporting hazardous chemical contamination to the state Department of Health.

### III. Prohibitions on Local Bans and Authorization for Local Regulation of STRs

#### A. Arizona

Arizona law ([A.R.S. §9-500.39](#)) prohibits a city or town from banning STRs or for restricting the use of or regulating STRs based on their classification, use or occupancy. However, the law does allow local regulation

of STRs for the protection of the public’s health and safety; adopting and enforcing residential use and zoning ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues; limiting or prohibiting the use of an STR for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses; or requiring the owner of an STR to provide emergency contact information.

Recently enacted legislation ([SB 1168](#)) further expands local regulatory authority to allow a city or town to require an owner of an STR to obtain and maintain a local regulatory permit or license; to require, before offering an STR for the first time, the owner to notify all single-family residential properties adjacent to, directly and diagonally across the street from the STR; to require the owner to display the local regulatory permit or license number on each advertisement for an STR; and to require the STR to maintain liability insurance of at least \$500,000 or to advertise and offer the rental through an online lodging marketplace that provides equal or greater coverage.

### **B. California**

California law ([Gov. Code §25132](#)) imposes fines for violation of local STR ordinances. Recently enacted legislation ([SB 60](#)) raised the maximum fines for violations of short-term rental ordinances. If the infraction poses a threat to health or safety, a county or city government may charge up to \$1,500 for the first violation, \$3,000 for the second violation of the same ordinance within one year, and \$5,000 for each additional violation of the same ordinance within one year.

### **C. Colorado**

In 2020, Colorado enacted legislation ([HB 20-1093](#)) that grants a board of county commissioners the authority to license and regulate properties advertised and rented as STRs and to fix the fees, terms and manner for issuing and revoking licenses.

### **D. Florida**

In addition to requiring licensure of STRs, Florida law ([Fla. Stats. §509.032](#)) also prohibits any local law, ordinance or regulation from banning STRs entirely or regulating the length of stays or their frequency. However, the law does allow local governments to conduct inspections of public lodging establishments for compliance with state building and fire prevention codes. The law also allows regulations exclusively relating to property valuation as a criterion for vacation rental if the regulation is required to be approved by the state land planning agency because the rental is located in an area with a critical state concern designation.

### **E. Idaho**

Idaho law ([Idaho Stat. §67-6539](#)) prohibits a county or city from enacting or enforcing an ordinance that “has the express or practical effect” of prohibiting STRs. However, the county or city may implement regulations necessary to safeguard public health, safety and general welfare in order to “protect the integrity of residential neighborhoods” in which the STRs operate. The law also prohibits a county or city from regulating “the operation of a short-term rental marketplace.”

### **F. Indiana**

Indiana law ([IC 36-1-24](#)) prohibits bans on owner-occupied STRs by any zoning ordinance or classification of a unit that permits residential use, as well as certain bans on non-owner-occupied STRs. The law does allow a local law or plan that regulates, prohibits or limits STRs only for the following primary purposes: protection of the public’s health and safety related to fire and building safety, sanitation, transportation, traffic control and pollution control if enforcement applies to similar properties that are not STRs; residential use and zoning related to noise, protection of welfare, property maintenance and nuisance issues; to limit or prohibit the use of STRs to house sex offenders, to operate a structured sober living home, to manufacture, exhibit, distribute or sell illegal drugs, liquor, pornography or obscenity, to operate an adult entertainment establishment; to limit or prohibit STRs located within a conservancy district; and to provide an emergency contact for an STR. The law also allows for a locality to require an owner to obtain a permit for each STR property.

### **G. Tennessee**

Tennessee law ([Tenn. Code §13-7-603](#)) states that an ordinance, resolution, regulation, rule, or other requirement that prohibits, effectively prohibits, or otherwise regulates the use of property as an STR does not apply if the property was being used as an STR by the owner of the property prior to the enactment of that ordinance, resolution, regulation, rule, or other requirement by the local governing body. The ordinance, resolution, regulation, rule, or other requirement in effect at the time the property began being used as an STR is the law that governs the use of the property until the property is sold, transferred, ceases being used as an STR for a period of 30 continuous months or has been in violation of a generally applicable local law three or more separate times.

### **H. Virginia**

Virginia law ([Code of Va. §15.2.983](#)) authorizes any locality, by ordinance, to establish an STR registry and require operators within the locality to register annually.

### **I. Wisconsin**

In addition to requiring licensure of certain STRs, Wisconsin law ([Wis. Stat. §66.1014](#)) prohibits local governments from banning the rental of an STR for a period of time of seven consecutive days or more. However, if a residential dwelling is rented for periods of more than six but fewer than 30 consecutive days, a political subdivision may limit the total number of days within any consecutive 365-day period that the dwelling may be rented to no fewer than 180 days.

## **IV. Prohibition of Certain STRs**

### **A. New York**

New York law ([MDW §4](#)) prohibits individuals from renting out non-owner-occupied apartments for fewer than 30 days, and prohibits any advertising of these units as STRs.

## **V. Taxation of STRs**

According to information from the [National Conference of State Legislatures](#), many states' laws provide for the taxation of STRs. According to the Bloomberg Tax 2018 Survey of State Tax Departments, 25 states require owners of STRs to collect sales tax, while 14 states require the third-party facilitator, such as Airbnb or VRBO, to collect sales tax. Some states also allow local tax of STRs. For example, Wisconsin enacted legislation in 2021 ([S 198](#)), which allows municipalities to enact ordinances imposing a tax, not to exceed 8% of the sales price, from selling or furnishing of rooms or lodging by owners of STRs.

More state-specific information regarding taxation is not provided in this memo, as the main focus was to identify laws that concerned statewide regulation of STRs; however, if the Commission would like to have more detailed information regarding how other states approach state and/or local taxation of STRs, that information can be provided at a future meeting.