



New short-term rental registration law does little to protect landlords - by Michael Capozzi

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Local Law 18

Local Law 18, also known as the Short-Term Rental Registration Law, which was adopted by the New York City Legislature in January 2022, went into effect January 9, 2023. The law requires short-term rental hosts to register with the mayor's Office of Special Enforcement (OSE). Booking service platforms (such as Airbnb, VRBO, Booking.com, and others) will now be prohibited from processing transactions for unregistered short-term rentals.

Does the new law change pre-existing laws/rules prohibiting short-term rentals?

It is important to note that Local Law 18 does not change the underlying law/rules governing short-term rentals. In buildings with three or more units, it remains illegal to rent a housing accommodation for fewer than 30 days if the owner of a co-op/condo, or lease-holder is not present during the entire rental period. Local Law 18 (which can be found in NYC Administrative Code § 26-3101 to § 26-3105) simply allows permanent occupants of a housing accommodation to register with the OSE that they intend to rent out their housing accommodations to short-term renters while the permanent occupants are present. In essence, the hosts will be allowing the short-term renters to reside with them in the housing accommodation provided that the total occupancy does not violate the NYC Housing Maintenance Code. The hosts cannot provide the short-term renters with keys to the housing accommodation for unaccompanied access.

What if the landlord doesn't want tenants renting accommodations?

Opting Out

The new law does permit building owners to opt-out through an online application, and prohibit short-term rentals of this nature all together. Thus, short-term rental registration requests will be denied in buildings where owners have opted-out of the program. Opting out of the program is also available to condo and co-op boards.

Penalties

The penalties for hosts who violate the new law range from \$1,000 to the lesser of \$5,000 or three times revenue from illegal rentals. Fines for platforms would be limited to the higher of \$1,500 or the total fees collected from illegal transactions.

Why Local Law 18 is important?

The enactment of this new law represents progress in terms of minimizing landlords' legal liability for hosts' temporary renting of living spaces that occur outside of the purview of landlords. The law is designed to prevent abuse of the landlord-tenant relationship through illegal short-term renting of housing accommodations.

As an example, some of our clients have seen a steady wave of prospective renters who fill out rental applications, pass the background checks and vetting process, pay a deposit, and sign a

lease only to immediately list the housing accommodations on Airbnb or a similar platform. The intent of Local Law 18 is to prevent such situations from arising.

The downside to Local Law 18.

Unfortunately, Local Law 18 does not fully empower landlords to prevent illegal temporary rentals within their properties. The reality is that most hosts are not interested in renting their housing accommodations to others (often complete strangers) for one or several weeks while living with the short-term renters. Local Law 18 fails to address the most common scenario, wherein the hosts looking to capitalize on their living space are inclined to rent to unknown parties when not actually living onsite. Even if landlords and property owners were to opt-out of the program as referenced above, it would not stop hosts from unlawfully renting their housing accommodations on a short-term basis.

Though Local Law 18 appears to have good intentions and was enacted in the spirit of serving justice, it will not change the city's increasingly tenuous residential market.

A step forward for landlords? Time will tell.

Local Law 18 fails to fully protect landlords from liability based upon unlawful short-term renting as detailed above. The new law is worded in a manner that seems to benefit tenants as opposed to landlords and property owners. Landlords will likely continue to be subjected to considerable financial penalties imposed by city agencies. In summary, despite the passage of Local Law 18, NYC landlords are still susceptible to seemingly ubiquitous illegal temporary renting.

Hopefully, for landlords, this new law is the first step towards reducing landlord liability for unlawful short-term rentals committed by hosts over which landlords have little, if any, control.

Should you need assistance navigating the nuances of Local Law 18, the attorneys at Ingram Yuzek Gainen Carroll & Bertolotti, LLP provide expert guidance and counsel in connection with all aspects of the landlord-tenant relationship, including residential (rent-regulated and non-regulated) and commercial contexts.

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