

Virginia Housing Commission to Study Issues Surrounding Limited Residential Lodging

New technological platforms such as Airbnb have made it easier than ever for individuals to rent out properties (or even single rooms within properties) on a short-term basis. Along with this burgeoning cottage industry have come a plethora of issues for property owners and local governments to include unauthorized subletting of units by tenants, nuisance issues surrounding rental of properties as “party houses,” questions surrounding the proper procedures for collection and remittance of transient occupancy and other local taxes, and divergence of standards for hotels and properties effectively being operated as such. In response, some local governments, including the Cities of Williamsburg and Virginia Beach, have adopted regulatory structures to restrict and even prohibit property owners from engaging in short-term property rentals.

To avoid the proliferation of patchwork regulation on the local level and create a hospitable environment for the emerging business model, the General Assembly this year considered legislation seeking to establish uniform statewide rules for limited residential lodging. Senator Jill Vogel (R-Winchester) and Delegate Chris Peace (R-Mechanicsville) introduced [S.B. 416](#) and [H.B. 812](#) respectively. These bills would void local ordinances regulating limited residential lodging and allow property owners to lease their primary residence for periods of less than 30 days. Alternate legislation was carried by Senator Bill DeSteph (R-Virginia Beach) and Delegate Scott Taylor (R-Virginia Beach) with the support of local governments which would have allowed for local governments to require a special exception or permit for short-term rental lodging with specific provisions regarding noise, trash or recycling collection and posting of emergency information.

The Virginia Apartment and Management Association (VAMA) has been closely monitoring legislative discussions surrounding the four bills as some multifamily rental housing providers have demonstrated interest in leasing vacant units on a short-term basis as a means of generating revenue on an asset that would otherwise not be providing any income. At the same time, some members have reported issues with tenants re-letting units without the authorization of the property owner or manager and the industry has an interest in preserving the legality of lease contract provisions that prohibit subletting of units. Though the impact of the bills is limited to properties where the renter is the primary resident, VAMA did work to secure language in the proposed bills to clarify that language within the private lease contract with regard to subleasing was not rendered unenforceable by any new state law. Additionally, the bills incorporated a mandate for the Virginia Housing Commission to further study the issue and the potential expansion of state rules to multifamily residential and commercial properties.

The ultimate fate of these bills, which would be the first of their kind across the country, is yet to be decided by the General Assembly. In either scenario, it appears that the issue will be sent to the Virginia Housing Commission for further study in the legislative interim, with a charge of reporting back to the General Assembly with recommendations for legislation to be considered in 2017. VAMA maintains positions on the Commission’s various work groups and will accordingly have a seat at the table for these ongoing discussions. VAMA will continue working to represent the industry’s interests to preserve the

opportunity to leverage new technologies to create new revenue streams while simultaneously preserving the authority of property owners to maintain control over units in their communities.

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