

REFERENCE TITLE: short-term rental enforcement; penalties

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1554

Introduced by
Senators Brophy McGee: Bowie, Carter; Representative Kavanagh

AN ACT

AMENDING SECTIONS 9-500.39, 11-269.17 AND 42-1125.02, ARIZONA REVISED
STATUTES; RELATING TO VACATION AND SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-500.39, Arizona Revised Statutes, is amended to read:

9-500.39. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A city or town may not prohibit vacation rentals or short-term rentals.

B. A city or town may not restrict the use of or regulate ~~THE USE OF A PERSON'S PRIMARY OR SECONDARY RESIDENCE AS A~~ vacation ~~rentals~~ RENTAL or short-term ~~rentals~~ RENTAL based on ~~their~~ ITS classification, ~~OR use or occupancy~~ except as provided in this section.

C. A city or town may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and zoning ordinances, including ordinances related to ~~OCCUPANCY~~, noise, protection of welfare, property maintenance and other nuisance issues, ~~if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.~~

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental 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.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the city or town with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental.

D. IF A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT A PERSON'S PRIMARY OR SECONDARY RESIDENCE OR IS OWNED OR OPERATED BY A CORPORATE ENTITY, AND A MAJORITY HOMEOWNER IS NOT ON THE PREMISES OF THE VACATION RENTAL OR SHORT-TERM RENTAL FOR THE DURATION OF THE RENTAL, THE PROPERTY MAY NOT BE RENTED MORE THAN ONE TIME IN A THIRTY-DAY PERIOD UNLESS A CITY OR TOWN ADOPTS AN ORDINANCE ALLOWING THE OWNER TO RENT MORE FREQUENTLY IN A THIRTY-DAY PERIOD.

~~E.~~ E. Within thirty days after a verified violation, a city or town shall notify the department of revenue and the owner of the vacation rental or short-term rental of the verified violation of the city's or

town's applicable laws, regulations or ordinances and, if the owner of the vacation rental or short-term rental received the verified violation, whether the city or town imposed a civil penalty on the owner of the vacation rental or short-term rental and the amount of the civil penalty, if assessed. If multiple verified violations arise out of the same response to an incident at a vacation rental or short-term rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section ~~42-1125, subsection AA~~ 42-1125.02, SUBSECTION C.

~~D.~~ F. If the owner of a vacation rental or short-term rental has provided contact information to a city or town pursuant to subsection ~~B~~ C, paragraph 4 of this section and if the city or town issues a citation for a violation of the city's or town's applicable laws, regulations or ordinances or a state law that occurred on the owner's vacation rental or short-term rental property, the city or town shall make a reasonable attempt to notify the owner or the owner's designee of the citation within seven business days after the citation is issued using the contact information provided pursuant to subsection ~~B~~ C, paragraph 4 of this section. If the owner of a vacation rental or short-term rental has not provided contact information pursuant to subsection ~~B~~ C, paragraph 4 of this section, the city or town is not required to provide such notice.

~~E.~~ G. This section does not exempt an owner of a residential rental property, as defined in section 33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.

~~F.~~ H. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

I. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO EXCEED THE OCCUPANCY LIMIT OF THE DWELLING OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION H OF THIS SECTION.

J. A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT SUBJECT TO CHAPTER 12, ARTICLE 1 OF THIS TITLE OR TITLE 11, CHAPTER 12, ARTICLE 1.

~~G.~~ K. For the purposes of this section:

1. "CORPORATE ENTITY" MEANS A LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP OR GENERAL PARTNERSHIP OR ANY OTHER ENTITY THAT IS NOT A NATURAL PERSON.

2. "PERSON":

(a) MEANS A NATURAL PERSON OR TRUST.

(b) DOES NOT INCLUDE A CORPORATE ENTITY.

~~1.~~ 3. "Transient" has the same meaning prescribed in section 42-5070.

~~2.~~ 4. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001.

(b) Vacation rental and short-term rental do DOES not include EITHER OF THE FOLLOWING:

(i) A unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

(ii) A RESIDENTIAL RENTAL DWELLING UNIT AS DEFINED IN SECTION 9-1301.

~~3.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection ~~B~~ C, D, H or ~~F~~ I of this section that has been finally adjudicated.

Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to read:

11-269.17. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A county may not prohibit vacation rentals or short-term rentals.

B. A county may not restrict the use of or regulate THE USE OF A PERSON'S PRIMARY OR SECONDARY RESIDENCE AS A vacation ~~rentals~~ RENTAL or short-term ~~rentals~~ RENTAL based on ~~their~~ ITS classification, OR use ~~or occupancy~~ except as provided in this section.

C. A county may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the county demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and zoning ordinances, including ordinances related to OCCUPANCY, noise, protection of welfare, property maintenance and other nuisance issues, ~~if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.~~

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders,

1 operating or maintaining a sober living home, selling illegal drugs,
 2 liquor control or pornography, obscenity, nude or topless dancing and
 3 other adult-oriented businesses.

4 4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
 5 short-term rental to provide the county with contact information for the
 6 owner or the owner's designee who is responsible for responding to
 7 complaints in a timely manner in person, over the phone or by email at any
 8 time of day before offering for rent or renting the vacation rental or
 9 short-term rental.

10 D. IF A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT A PERSON'S
 11 PRIMARY OR SECONDARY RESIDENCE OR IS OWNED OR OPERATED BY A CORPORATE
 12 ENTITY, AND A MAJORITY HOMEOWNER IS NOT ON THE PREMISES OF THE VACATION
 13 RENTAL OR SHORT-TERM RENTAL FOR THE DURATION OF THE RENTAL, THE PROPERTY
 14 MAY NOT BE RENTED MORE THAN ONE TIME IN A THIRTY-DAY PERIOD UNLESS A
 15 COUNTY ADOPTS AN ORDINANCE ALLOWING THE OWNER TO RENT MORE FREQUENTLY IN A
 16 THIRTY-DAY PERIOD.

17 ~~E.~~ E. Within thirty days after a verified violation, a county
 18 shall notify the department of revenue and the owner of the vacation
 19 rental or short-term rental of the verified violation of the county's
 20 applicable laws, regulations or ordinances and, if the property owner
 21 received the verified violation, whether the county imposed a civil
 22 penalty on the owner of the vacation rental or short-term rental and the
 23 amount of the civil penalty, if assessed. If multiple verified violations
 24 arise out of the same response to an incident at a vacation rental or
 25 short-term rental, those verified violations are considered one verified
 26 violation for the purpose of assessing civil penalties pursuant to section
 27 ~~42-1125, subsection AA~~ 42-1125.02, SUBSECTION C.

28 ~~D.~~ F. If the owner of a vacation rental or short-term rental has
 29 provided contact information to a county pursuant to subsection ~~B~~ C,
 30 paragraph 4 of this section and if the county issues a citation for a
 31 violation of the county's applicable laws, regulations or ordinances or a
 32 state law that occurred on the owner's vacation rental or short-term
 33 rental property, the county shall make a reasonable attempt to notify the
 34 owner or the owner's designee of the citation within seven business days
 35 after the citation is issued using the contact information provided
 36 pursuant to subsection ~~B~~ C, paragraph 4 of this section. If the owner of
 37 a vacation rental or short-term rental has not provided contact
 38 information pursuant to subsection ~~B~~ C, paragraph 4 of this section, the
 39 county is not required to provide such notice.

40 ~~E.~~ G. This section does not exempt an owner of a residential
 41 rental property, as defined in section 33-1901, from maintaining with the
 42 assessor of the county in which the property is located information
 43 required under title 33, chapter 17, article 1.

44 ~~F.~~ H. A vacation rental or short-term rental may not be used for
 45 nonresidential uses, including for a special event that would otherwise

require a permit or license pursuant to a county ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

I. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO EXCEED THE OCCUPANCY LIMIT OF THE DWELLING OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION H OF THIS SECTION.

J. A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT SUBJECT TO CHAPTER 12, ARTICLE 1 OF THIS TITLE OR TITLE 9, CHAPTER 12, ARTICLE 1.

~~G.~~ K. For the purposes of this section:

1. "CORPORATE ENTITY" MEANS A LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP OR GENERAL PARTNERSHIP OR ANY OTHER ENTITY THAT IS NOT A NATURAL PERSON.

2. "PERSON":

(a) MEANS A NATURAL PERSON OR TRUST.

(b) DOES NOT INCLUDE A CORPORATE ENTITY.

~~F.~~ 3. "Transient" has the same meaning prescribed in section 42-5070.

~~E.~~ 4. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include EITHER OF THE FOLLOWING:

(i) A unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

(ii) A RESIDENTIAL RENTAL DWELLING UNIT AS DEFINED IN SECTION 11-1701.

~~D.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection ~~B~~ C, D, H or ~~F~~ I of this section that has been finally adjudicated.

Sec. 3. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties; online lodging marketplaces; online lodging operators; violation; classification; appeal; definitions

A. An online lodging ~~operator~~ MARKETPLACE MAY NOT ADVERTISE OR SUPPORT THE ADVERTISING OF A VACATION RENTAL OR SHORT-TERM RENTAL that fails to comply with section 42-5042. AN ONLINE LODGING MARKETPLACE THAT VIOLATES THIS SECTION shall pay ~~the following~~ A civil penalty. ~~OF \$250 FOR EACH OFFENSE.~~

~~1. For a first offense, \$250.~~

~~2. For a second and any subsequent offense, \$1,000.~~

1 B. AN ONLINE LODGING OPERATOR THAT FALSIFIES INFORMATION TO AN
2 ONLINE LODGING MARKETPLACE IN VIOLATION OF SECTION 42-5042 IS GUILTY OF A
3 PETTY OFFENSE.

4 ~~B-~~ C. If an online lodging operator received a verified violation,
5 the online lodging operator shall pay the following civil penalty:

6 1. For a first verified violation received for a property, either:

7 (a) If the city, town or county did not impose a civil penalty on
8 the online lodging operator for the verified violation, \$500.

9 (b) If the city, town or county imposed a civil penalty on the
10 online lodging operator for the verified violation, the difference between
11 the amount prescribed in subdivision (a) of this paragraph and the amount
12 of the civil penalty the city, town or county imposed on the online
13 lodging operator for the verified violation.

14 2. For a second verified violation received on the same property
15 within a twelve-month period, either:

16 (a) If the city, town or county did not impose a civil penalty on
17 the online lodging operator for the verified violation, \$1,000.

18 (b) If the city, town or county imposed a civil penalty on the
19 online lodging operator for the verified violation, the difference between
20 the amount prescribed in subdivision (a) of this paragraph and the amount
21 of the civil penalty the city, town or county imposed on the online
22 lodging operator for the verified violation.

23 3. For a third and any subsequent verified violation received on
24 the same property within the same twelve-month period, ~~either:~~ THE
25 DEPARTMENT SHALL SUSPEND THE ONLINE LODGING OPERATOR'S TRANSACTION
26 PRIVILEGE TAX LICENSE FOR A PERIOD OF SIX MONTHS. A LICENSE SHALL BE
27 REINSTATED ONLY AFTER THE ONLINE LODGING OPERATOR HAS PROVEN AN ABILITY TO
28 ELIMINATE FUTURE VERIFIED VIOLATIONS.

29 ~~(a) If the city, town or county did not impose a civil penalty on~~
30 ~~the online lodging operator for the verified violation, fifty percent of~~
31 ~~the gross monthly revenues of the lodging accommodation at which the~~
32 ~~violation occurred for the month in which the violation occurred or~~
33 ~~\$1,500, whichever is greater.~~

34 ~~(b) If the city, town or county imposed a civil penalty on the~~
35 ~~online lodging operator for the verified violation, the difference between~~
36 ~~the amount prescribed in subdivision (a) of this paragraph and the amount~~
37 ~~of the civil penalty the city, town or county imposed on the online~~
38 ~~lodging operator for the verified violation.~~

39 ~~C-~~ D. If the department imposes a civil penalty pursuant to
40 subsection ~~B-~~ C, paragraph 1 of this section and the online lodging
41 operator appeals the civil penalty, the hearing officer may waive or lower
42 the civil penalty based on the online lodging operator's diligence in
43 attempting to prohibit renters from violating state law or the city's, ~~or~~
44 town's OR COUNTY'S applicable laws, regulations or ordinances. In

1 determining whether to waive or lower the civil penalty, the hearing
2 officer shall consider both of the following:

3 1. Whether rules that prohibit activities violating state law or
4 the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or
5 ordinances were included in the advertisement for the lodging
6 accommodation, vacation rental or short-term rental.

7 2. Whether the rules described in paragraph 1 of this subsection
8 were posted in a conspicuous location inside the lodging accommodation,
9 vacation rental or short-term rental.

10 ~~D.~~ E. For the purposes of this section:

11 1. "Lodging accommodation" has the same meaning prescribed in
12 section 42-5076.

13 2. "Online lodging marketplace" has the same meaning prescribed in
14 section 42-5076.

15 3. "Online lodging operator" has the same meaning prescribed in
16 section 42-5076 and includes an owner of a vacation rental or short-term
17 rental that is not offered through an online lodging marketplace.

18 4. "Vacation rental" and "short-term rental" have the same meanings
19 prescribed in section 9-500.39 or 11-269.17.

20 5. "Verified violation" has the same meaning prescribed in section
21 9-500.39 or 11-269.17.