



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

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## Summary of the Short-Term Rental Unit Act

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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## Summary of the Short-Term Rental Unit Act

**Reference Number:** MTAS-3002

Public Chapter 972, Acts of 2018, became effective May 17, 2018. The legislation, known as the “Short-Term Rental Unit Act” provides some guidance on the manner in which municipalities can regulate short-term rental units. The following is a summary of the legislation.

Section 1 adds several new parts to the Tennessee Code. The first substantive part added, T.C.A. § 13-7-602, includes a number of definitions for phrases used throughout the public chapter.

### **Grandfather Clause**

T.C.A. § 13-7-603(a) provides that any ordinance, resolution, regulation, rule, or other requirement of any type that prohibits, effectively prohibits, or otherwise regulates the use of property as a short-term rental unit **does not apply to property that was being used as a short-term rental unit prior to the enactment of the ordinance, resolution, regulation, rule or other requirement by the local governing body.** This section also provides that the law in place at the time that the property was being used as a short-term rental unit is the law that governs the use of the short-term rental unit until the property is sold, transferred, ceases being used as a short-term rental unit for a period of 30 continuous months, or has been in violation of generally applicable local laws 3 or more separate times as provided by T.C.A. § 13-7-604. **It is important to note that the phrase being “used as a short-term rental unit” is a defined term and it means:**

the property was held out to the public for use as a short-term rental unit, and:

(A) For property that began being held out to the public for use as a short-term rental unit within the jurisdiction of a local governing body that required a permit to be issued or an application to be approved pursuant to an ordinance specifically governing short-term rental units prior to using the property as a short-term rental unit, a permit was issued or an application was approved by the local governing body for the property; or

(B) For property that began being held out to the public for use as a short-term rental unit within the jurisdiction of a local governing body that did not require a permit to be issued or an application to be approved pursuant to an ordinance specifically governing short-term rental units, the provider remitted taxes due on renting the unit pursuant to title 67, chapter 6, part 5 for filing periods that cover at least six (6) months within the twelve-month period immediately preceding the later of: (i) The effective date of this act; or (ii) The effective date of an ordinance, resolution, regulation, rule, or other requirement by a local governing body having jurisdiction over the property requiring a permit or an application to be approved pursuant to an ordinance specifically governing short-term rental units.

So, to the extent that (1) a property was held out to the public as a short-term rental unit, (2) the municipality in which the property is located had a permit or application process in place in order to operate as a short-term rental unit provider, and (3) the provider obtained a permit or had an application approved, the provider is grandfathered in. In addition, short-term rental units are grandfathered in if the governmental entity had not adopted a permitting or application process pursuant to an ordinance specifically governing short-term rental units, but the provider remitted taxes due on renting the unit under Tennessee Code Annotated, Title 67, Chapter 6, Part 5, for the filing period that covers at least 6 of the 12 months immediately preceding the effective date of this Act or the effective date of any regulation adopted by the municipality requiring an application to be approved or a permit to be obtained pursuant to an ordinance, in order to operate as a short-term rental unit provider. Consequently, a grandfathered provider may continue to operate under the regulations that the municipality had in place at the time that the property began being used as a short-term rental unit, until the property is sold, transferred, ceases being used as a short-term rental unit for a period of 30 continuous months, or has been in violation of generally applicable local laws 3 or more separate times as provided by T.C.A. § 13-7-604.

### **Brentwood Exception**

T.C.A. § 13-7-603(b), which only applies to the City of Brentwood, provides that any ordinance, resolution, regulation, or other requirement of any type enacted prior to January 1, 2014, that expressly limits the period of time a residential dwelling may be rented and prohibits or effectively prohibits the

use of property as a short-term rental unit may apply to any property within the municipality, regardless of the property's current use.

#### **Prohibition for Violation**

If the unit has been in violation of a generally applicable local law 3 or more separate times and the provider has no appeal rights remaining, T.C.A. § 13-7-604 provides that a municipality may prohibit the continued use of a short-term rental unit. The burden of proving that a generally applicable local law was violated is on the local governing body. "Generally applicable local law" is defined as:

an ordinance, resolution, regulation, rule, or other requirement of any type other than zoning enacted, maintained, or enforced by a local governing body that applies to all property or use of all property and does not apply only to property used as a short-term rental unit.

#### **Permits and Applications**

Additionally, T.C.A. § 13-7-604 authorizes the municipal governing body to put in place a permitting or application process for short-term rental units. It provides that when a local governing body authorizes the use of short-term rental units through a permitting or application process, the use of a short-term rental unit may be suspended during the time that a unit does not maintain a permit or approved application if the permitting and application process requirements are reasonable. However, the language also provides that **nothing** extinguishes a provider's right to the continued use of the property as a short-term rental unit in accordance with T.C.A. § 13-7-603(a) unless the property is sold, transferred, ceases being used as a short-term rental unit for a period of 30 continuous months, or has been in violation of generally applicable local laws 3 or more separate times as provided by T.C.A. § 13-7-604. To the extent a municipality is contemplating requiring short-term rental providers to obtain a permit or complete an application in order to operate, it is imperative that any requirements for receiving a permit or having an application accepted be reasonable and relatively easy to comply with so as to not put an existing provider who has the right to operate under T.C.A. § 13-7-603(a), out of business.

The language in this section also provides that if the municipality allows for public complaints to be filed through the permit or application process, the municipality must notify a complainant that any false complaint made against a unit is punishable as perjury under T.C.A. § 39-16-702.

Finally, this section also provides that if a municipality prohibits or effectively prohibits the operation of a short-term rental unit that is authorized to operate under T.C.A. § 13-7-603(a), the provider may challenge the prohibition, regulation, suspension or regulation as in conflict with this Act, through a civil action or appeal in chancery or circuit court.

#### **Restricting the Use of Property as Short-Term Rental Units**

T.C.A. § 13-7-605 authorizes a condominium, co-op, homeowners association or other similar entity to prohibit or otherwise restrict the use of property as short-term rental units within the entity's jurisdiction and allows the same for a lessor, through the terms of a lease agreement, and property owners through use of a restrictive covenant.

#### **Preemption**

T.C.A. § 13-7-606 provides that the language in this Act supersedes any ordinance, resolution, rule or other requirement enacted, maintained, or enforced by a municipality that is in conflict with this Act.

#### **Conclusion**

Aside from the language in this public chapter, the General Assembly has not provided any other framework for regulating short-term rental units. However, if you are in a municipality that is contemplating regulating short-term rental units, we again suggest that the regulations be reasonable and obtainable, so that they may withstand any legal challenge.

In an effort to assist cities in better understanding the new legislation, MTAS staff developed a video on the Short-Term Rental Unit Act that can be found at <https://youtu.be/5XZzzoZnNkY> [1].

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#### **Links:**

[1] <https://youtu.be/5XZzzoZnNkY>

*DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.*

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