

Concise Explanatory Statement

Rhode Island Government Register

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

AGENCY: Rhode Island Department of Business Regulation

DIVISION: Commercial Licensing

RULE IDENTIFIER: 230-RICR-30-20-4

REGULATION TITLE: Short-Term Rental Property Registration

RULEMAKING ACTION: Full rulemaking, Adoption

COMMENT PERIOD: July 28, 2022, to August 27, 2022

A. Statement of Purpose of the Amendments

Pursuant to the enactment of R.I. Gen. Laws § 42-63.1-14, the Department is required to create an online registration database for short-term rental (STR) properties. In order complete the implementation process, DBR proposed this regulation which establishes a registration process for short-term rentals.

- Registration is by property, not property owner. Any person or entity that operates multiple properties needs to submit a registration for each separate property.
- Registrations must be submitted electronically.
- Registrations shall be terminated by the registrant when no longer subject to the registration requirement.
- Registration and Renewal fee will be \$50 for a two-year registration.
- Registrations cannot be transferred to a new registrant.

B. Summary of the Regulatory Analysis

In accordance with R.I. Gen. Laws § 42-63.1-14, all short-term rental properties listed for rent on the website of any third-party hosting platform that conducts business in Rhode Island must be registered with the Department. This would include properties listed on websites like AirBnB and Vrbo as well as properties listed with traditional real estate brokerages. Costs will be \$50 per property for a 2-year registration. The regulation benefits the municipalities that requested this state-operated registration system from the legislature.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

A full regulatory analysis may be found in the RICR database under the “Rulemaking Documents” tab for these proposed amendments under the title “Studies/Reports.”

C. Summary of Post-Comment Changes

The following differences exist between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-2.7 and the rule as adopted. These changes are all consistent with, and are a logical outgrowth of, the proposed regulation in the notice of proposed rulemaking in accordance with R.I. Gen. Laws § 42-35-6.1. In addition to this summary of changes, a redlined document showing the exact changes is attached.

1. Commentary was received regarding whether multiple registrations will be required for the renting of different private rooms or shared spaces in the same single-family house or residential unit, such as an apartment or condominium. There were also questions as to whether a multi-family property required one registration for the whole building or a separate registration for each short-term rental unit within the building.

In consideration of this commentary, the Department made a post-comment change in § 4.4.1(B) to clarify that owner-occupied short-term rentals of rooms or shared spaces in the same owner-occupied unit only require one registration per unit. However, rentals of entire spaces require one registration per unit. That means that a 3-family house with three apartments all advertised as short-terms rentals, requires 3 registrations.

D. Summary of Comments Not Resulting in Regulatory Language Changes

Below is a summary of other public comments received that did not result in changes to the text of the Regulation and a brief description of the Department’s reasons for not making any such changes after due consideration.

1. *Full Support for the Amendment.* One comment expressed full support for the proposed regulation.
2. *The Short-Term Rentals Registration Database should be accessible to the public.* Commentary was received which requested that the registration database be publicly accessible.

In accordance with the statutory requirement in R.I. Gen. Laws § 42-63.1-14(h), the Department will provide access to the registration database on its website.

3. *The Short-Term Rentals Registration Database should not be accessible to the public.* Commentary was received which requested that the database not be accessible to the public related to concerns of invasion of privacy and potential security risks for vacant rental units.

In accordance with the statutory requirement in R.I. Gen. Laws § 42-63.1-14(h), the Department will provide access to the registration database on its website.

4. *Requests for exemptions to the registration requirements for seasonal/summer only rental periods.* Commentary was received requesting that the regulation set a minimum number of days or a minimum period that a short-term rental property is rented prior to requiring registration with the Department.

R.I. Gen. Laws § 42-63.1-14 does not provide for any exceptions or exemptions to the registration requirement. Any property falling under the definition of short-term rental (any period up to and including 30 nights) advertised on a 3rd party hosting platform must register with the Department. Should the legislature hereafter adopt exceptions, those exceptions will be implemented by the Department.

5. *Requests for exemptions to the registration requirements for owner-occupied properties.* Commentary was received requesting that the regulation should not require registration for owner-occupied STR properties.

R.I. Gen. Laws § 42-63.1-14 does not provide for any exceptions or exemptions to the registration requirement. Any property falling under the definition of short-term rental (any period up to and including 30 nights) advertised on a 3rd party hosting platform must register with the Department. Should the legislature hereafter adopt exceptions, those exceptions will be implemented by the Department.

6. *This registration is a regulatory burden.* Commentary was received that this registration puts a burden on short-term rental hosts who are already subject to taxes and municipal registration fees.

The Department is aware of the burden on small businesses from this registration and, therefore, proposed a fee of \$50 for a two-year registration. We looked at a range of fees and set this at the low end to help lessen the effect on small businesses.

7. *Lessee as Registrant.* Commentary was received that the registration process appears to allow a lessee/long-term tenant to rent a property as a short-term rental without the knowledge or approval of the property owner.

R.I. Gen. Laws § 42-63.1-14 requires all short-term rentals to be registered. Whether or not a property owner allows its long-term lessee to sublet a property as a short-term rental is a private matter between the property owner and the lessee.

8. *Request for statewide uniformity of short-term rental registration requirements; municipal requirements and fees vary.* Commentary was received in support of a statewide registration system instead of the various requirements for short-term rentals in each municipality.

In R.I. Gen. Laws § 42-63.1-14 the state registration requirement is independent of any municipal short-term rental registration requirements. Municipalities may still require registration and impose short-term rental requirements as may be permitted by law.

9. *Commentary was received requesting that the Department replace "operates" with "owns" in § 4.4.1(B) of the proposed regulation.*

Given that the statutory definition of owner includes both owner and lessee (see R.I. Gen. Laws § 42-63.1-2), we cannot replace “operates” with “owns.” There are lessees/tenants that advertise their long-term rentals as short-term rentals, and they are not the owner of the property. Therefore, we chose to use “operates” instead of “owns” in this context.

10. *Commentary was received requesting clarification that the registration requirement applies only to the owner of the property and not to a property manager, rental agent, or other third party.*

The proposed regulation already defines “Registrant” as the Owner registering a property with the Department as required by R.I. Gen. Laws § 42-63.1-14. The Act defines “Owner” as property owner or lessee. Therefore, it is clear based upon the definitions and use of terms in the regulation that the property manager, rental agent or third party is not required to register the property. However, third party hosting platforms and real estate licensees should notify their clients about the state’s short-term rental registration requirements.

11. *Commentary was received requesting that the regulation define "property manager" and clarify that the name of a rental agent who simply places a tenant in a short- term rental need not be listed on the registration form.*

“Property manager” is a term used in many places in the general laws and it is not defined. The focus here is not the property manager but the owner or lessee choosing to advertise their property for rent as a short-term rental. Given that the focus of R.I. Gen. Laws § 42-63.1-14 and the registration is not on the property manager, and that it is a common phrase not usually defined, we will not define it in this regulation. It is the registrant’s responsibility to determine if there is a property manager and if so to identify the manager in the registration as required by R.I. Gen. Laws § 42-63.1-14(d)(1), (2) and (3).

12. *Commentary was received requesting clarification that a hosting platform does not include a web site that is operated by a property manager, rental agent or property owner.*

R.I. Gen. Laws § 42-63.1-2(5) states: “‘Hosting platform’ means any electronic or operating system in which a person or entity provides a means through which an owner may offer a residential unit for "tourist or transient" use. This service is usually, though not necessarily, provided through an online or web-based system which generally allows an owner to advertise the residential unit through a hosted website and provides a means for a person or entity to arrange tourist or transient use in exchange for payment, whether the person or entity pays rent directly to the owner or to the hosting platform. All hosting platforms are required to collect and remit the tax owed under this section.”

If a website operated by a property manager, real estate licensee or rental agent falls within this definition and the firm is listing properties that it does not own on the website, then the properties must be registered with the Department by the property owner or lessee.

13. *Commentary was received requesting that registration and payment of registration fees take place electronically.*

§ 4.4.1(F) of the regulation already states: “All applications for Registration and renewal shall be submitted electronically through a registration system as directed by the Department.” All applications and payments must be made electronically.

14. *Commentary was received requesting clarification of which registration information may be kept private.*

The Department intends that only the property address will be available in the online database lookup on the Department’s website.

15. *Commentary was received seeking clarification of the various definitions of short-term rentals in R.I. Gen. Laws Chapter 42-63.1. R.I. Gen. Laws § 42-63.1-14(b) defines a short-term rental as "a person, firm, or corporation's utilization, for transient lodging accommodations, not to exceed thirty (30) nights at a time" and R.I. Gen. Laws § 42-63.1-2(6) defines "occupancy" as “a person, firm or corporation's use of space for transient lodging accommodations not to exceed thirty (30) days. Excluded from "occupancy" is the use of space for which the occupant has a written lease for the space, which lease covers a rental period of twelve (12) months or more. Furthermore, any house, condominium or other residential dwelling rented, for which the occupant has a documented arrangement for the space covering a rental period of more than thirty (30) consecutive days or for one calendar month is excluded from the definition of occupancy.”*

While there is an inconsistency between the use of “night” and “day”, “night” is how short-term rentals and hotel rooms are booked and rented. The Department will interpret both as “night” and define STR as rented for up to and including 30 nights and the exclusion of rentals for more than 30 nights.

E. Frequently Asked Questions from the Public Comment Period

Most of the comments received during the public comment period were questions about why we have this registration and how it will be implemented. The Department has included these questions and answers in this Concise Explanatory Statement. A comprehensive set of FAQs will be posted on the Department’s website when the registration system launches.

1. *Can a registration be transferred to another owner or property?*

No. Registrations are per property based upon the address and the person registering the property with the Department as a short-term rental. Any change in registrant and/or property location would require the termination of the first registration and the application for a new registration for the new registrant/location.

2. *Why is registration required? Why do we need to register with the municipality and now the state?*

R.I. Gen. Laws § 42-63.1-14, enacted by the Legislature, required the Department to implement a statewide registration for short term rentals. This statute does not address whether the municipalities will continue to have their own registration systems.

3. *Do the municipalities receive the registration fees?*

No. The registration fees will be deposited into the state general fund. Municipalities requested this state registration notwithstanding that many municipalities have their own registration requirements and fees in addition to this state registration being implemented by the Department. The state registration requirement does not affect whether short-term rentals are allowed or disallowed in any municipality, rather it simply requires them to be registered with the state.

4. *Will this legislation legitimize short term rentals and require all municipalities to allow them by default?*

This registration requirement does not affect whether short-term rentals are allowed or disallowed in any municipality, rather it simply requires them to be registered with the state.

5. *What is the implementation timeline for this new registration?*

The Department will endeavor to contact as many short-term rental listing holders as possible through notification to the third-party platforms when the registration takes effect.

6. *How has the Department notified short-term rental owners/operators of this registration requirement?*

The Department has had information on its website since May 2022 with instructions on how anyone could be added to the interested parties list for the adoption of this regulation and implementation of the registration process. The Department notified everyone on this list as well as the local real estate associations when the regulations were posted for public comment. The Department also responded to many press inquiries on the proposed regulation. The Department will endeavor to contact as many short-term rental listing holders as possible through notification to its interested parties list and third-party platforms when the registration takes effect.

7. *Will commercial entities be required to show proof of liability insurance or other insurance as part of the registration process?*

Neither R.I. Gen. Laws § 42-63.1-14 nor this regulation contain any insurance requirement.

8. *Will municipalities be notified of entities that are in violation of this regulation? Will violations be posted to the public for each locality?*

The Department will handle potential violations in accordance with § 4.6 of the regulation and the Administrative Procedures Act.

9. *What is the definition of “short-term rental”?*

Statutory definitions are not repeated in the regulation. “Short-term rental” is defined in the Act, R.I. Gen. Laws § 42-63.1-14(b), as: “For purposes of this section, the term "short-term rental" means a person, firm, or corporation's utilization, for transient lodging accommodations, not to exceed thirty (30) nights at a time.”

10. *What information (besides the number of rooms for rent) will the application require?*

The application will require the information listed in the statute at R.I. Gen. Laws § 42-63.1-14(d). Statutory provisions are not repeated in the regulation. Here is a quotation of those statutory requirements for the registration.

- (1) The principal place of business of the owner, or if outside the state, the agent for service of process or property manager for the owner;*
- (2) The phone number of the owner of the property and/or property manager;*
- (3) The email address of the property owner and/or property manager;*
- (4) The address of the rental property;*
- (5) The number of rooms for rent at the property;*
- (6) Whether the registrant rents or owns; and*
- (7) Intended use (entire space, private room or shared space).*

11. *Except for an incomplete application, can you foresee any instances where an applicant would be denied?*

No. This will be an online registration system. Applicants who fill out all required fields and pay the fee will be issued a registration.

12. *How much are the penalties/fees for non-compliance?*

The penalties are set in the statute at R.I. Gen. Laws § 42-63.1-14(i) and are not repeated in the regulation. The statutory penalties are:

- (1) Two hundred fifty dollars (\$250) for the first thirty (30) days of non-compliance;*
- (2) Five hundred dollars (\$500) for between thirty-one (31) and sixty (60) days of non-compliance; and*

(3) One thousand dollars (\$1,000) for more than sixty (60) days of non-compliance.

13. In the case of traditional real estate brokerages, who is considered the applicant---the broker/office or the homeowner?

The property owner or lessee is responsible for the registration.

14. Will short-term rental hosts need to be registered first with their municipality?

The state registration requirement is independent of any municipal short-term rental registration requirements. State registration is required irrespective of whether a municipality requires short-term rental registration or fees.

15. Will the State's registration have built into its code each municipalities' zoning ordinances? Or does this supersede municipalities?

The state registration requirement is independent of any municipal short-term rental registration requirements. Municipalities may still require registration and impose short-term rental requirements as may be permitted by law.

16. How will this registration information be shared with municipalities?

Municipalities can access the Department's database on its website at any time.

17. Who can I contact at the state level if our town is not following their own ordinances and/or state law regarding short-term rentals?

The Department does not have jurisdiction over this. If you have questions or concerns regarding a municipality's enforcement or application of its short-term rental ordinances or state laws you should reach out to your municipal officials, including but not limited to the City/Town Solicitor, the Clerk's Office, or the Office of the Mayor or Town Manager.

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 30 – COMMERCIAL LICENSING

SUBCHAPTER 20 – REAL ESTATE

PART 4 – Short-Term Rental Property Registration

4.1 Authority

This Part is promulgated pursuant to the authority granted in R.I. Gen. Laws § 42-63.1-14.

4.2 Purpose

The purpose of this Part is to establish standards and procedures for the registration of short-term rental properties listed for rent on the website of any third-party hosting platform that conducts business in Rhode Island.

4.3 Definitions

A. In addition to the terms defined in R.I. Gen. Laws § 42-63.1-2, for this Part, the following terms shall have the following meanings:

1. “Department” means the Department of Business Regulation.
2. “Director” means the Director of the Department of Business Regulation or his or her designee.
3. “Owner” has the meaning set forth in R.I. Gen. Laws § 42-63.1-2. Note that the definition of “Owner” includes a lessee where the lessee is offering a residential unit for “tourist or transient” use.
4. “Registrant” means the Owner registering a property with the Department as a short-term rental as required by R.I. Gen. Laws § 42-63.1-14.
5. “Registration” means a Registration for a short-term rental property as required by R.I. Gen. Laws § 42-63.1-14.
6. “Rooms for rent” means the number of rooms in the short-term rental exclusive of bathrooms and kitchens.
7. “Short-term rental” has the meaning set forth in R.I. Gen. Laws § 42-63.1-14(b).

4.4 Registrations

In accordance with R.I. Gen. Laws § 42-63.1-14, all short-term rental properties listed for rent on the website of any third-party hosting platform that conducts business in Rhode Island must be registered with the Department.

4.4.1 Applications for Registration

- A. Every Owner of a short-term rental property subject to R.I. Gen. Laws § 42-63.1-14 shall submit a complete application to the Department along with the applicable fee for each property advertised for short-term rental.
- B. Registrations will be issued for each property. If a person or entity operates multiple short-term rental properties, each individual property must be separately registered with the Department.
 - 1. Listings for private rooms or shared space within the same owner-occupied unit for short-term rental only require one registration for per unit.
 - 2. Listings for the entire space require one registration per rental unit. For example, for multi-family properties, each separate apartment advertised for short-term rental within the building must have its own registration.
- C. The application shall include the information set forth in R.I. Gen. Laws § 42-63.1-14(d) and any other information the Department may require.
- D. Upon submission of a complete Registration application, the Department shall issue a Registration.
- E. No Registration will be issued for incomplete or deficient applications.
- F. All applications for Registration and renewal shall be submitted electronically through a registration system as directed by the Department.

4.4.2 Term of Registration

- A. The term of the Registration shall be two (2) years from the date on which it was issued.
- B. The expiration date of the Registration shall appear on the Registration. It is the obligation of the Registrant to timely renew its Registration. Failure to receive a renewal notice shall not be an excuse for failure to renew.

4.4.3 Renewal of Registration

- A. Registrants shall apply for the renewal of the Registration with the Department in the manner designated for renewal by the Department.

B. Renewal applications must be received by the Department prior to the expiration of the Registration.

C. Registrations that are not renewed prior to their expiration date shall expire.

4.4.4 Termination of Registration

A. If the Registrant is no longer going to use the property as a short-term rental advertised on a hosting platform, the Registrant shall terminate the Registration with the Department by submitting a notice of termination to the Department.

B. The notice shall be made by submitting a termination affidavit, in the manner directed by the Department, within sixty (60) calendar days of such discontinuance of use as a short-term rental.

4.4.5 Transfer of Registration Prohibited

A. A Registration shall be granted only to the Registrant. A Registration is not subject to transfer, assignment or leasing to another person or entity.

B. In the event of a change in registrant, the Registration must be terminated in accordance with § 4.4.4 of this Part and the new registrant must apply for a new Registration.

4.4.6 Duty to Update Information on File with the Department

A. It is the responsibility of the Registrant to ensure that all application information is accurate and current for the duration of the Registration.

B. Registrants shall notify the Department within ten (10) business days of any change in the information contained in the Registration, including but not limited to:

1. Any change in contact information reported for the Registrant, registered agent, and/or property manager;
2. Any change in the number of rooms for rent or intended use of the property; and/or
3. Any change in the registered agent or property manager.

4.5 Fees and Charges

A. Registration fees are payable to the “General Treasurer, State of Rhode Island” and are non-refundable.

B. Fees:

<u>Registration Fee</u>	<u>\$ 50.00</u>
<u>Renewal Fee</u>	<u>\$ 50.00</u>

4.6 Notices of Violation and Penalties for Failure to Register

- A. Penalties may be imposed on Owners for failure to register in accordance with R.I. Gen. Laws § 42-63.1-14.
- B. The Department shall be authorized to issue to the Owner in writing or by email a Notice of Violation for failure to register, assessing the statutory penalties listed in R.I. Gen. Laws § 42-63.1-14(i).
1. The Owner shall, within twenty (20) days from the date of the Department's Notice:
- a. Pay the penalty on the Notice of Violation and register the property or properties identified with the Department; or
- b. File with the Department a written response to the Notice of Violation. The Department will then evaluate the response and the matter will be handled in compliance with the Department's Rules of Procedure for Administrative Hearings, Part [10-00-2](#) of this Title.
- C. All hearings and enforcement actions shall be conducted in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1, *et seq.*, and the Department's Rules of Procedure for Administrative Hearings, Part [10-00-2](#) of this Title.

4.7 Severability

If any section, term, or provision of this Regulation is adjudged invalid for any reason, all remaining sections, terms, and provisions shall remain in full force and effect.