



Commonwealth of Massachusetts
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400 CMR 4.00
PUBLIC REGISTRY OF LODGING OPERATORS

NOTICE OF DRAFT REGULATION FOR PUBLIC COMMENT

Notice is hereby given pursuant to Massachusetts General Laws chapter 30A, section 2 that the Executive Office of Housing and Economic Development (“EOHED”) is proposing new regulations at 400 CMR 4.00 entitled “Public Registry of Lodging Operators.”

In December 2018, the Legislature enacted and the Governor signed chapter 337 of the Acts of 2018, *An Act Regulating and Insuring Short-Term Rentals* (the “Short-Term Rental Act”). Pursuant to section 1 of the Short-Term Rental Act (as codified in section 68 of Chapter 23A of the General Laws), EOHED, in consultation with the Executive Office of Technology Services and Security and the Department of Revenue, shall establish and maintain a registry for all operators under chapter 64G who file an application and are issued a certificate of registration in accordance with section 67 of chapter 62C. EOHED also is required to promulgate regulations that are necessary to: (i) develop and implement a registry that is accessible and available to the public; and (ii) support the competitive operation of the traditional lodging industry, short-term rental industry and hosting platforms to operate competitively in the Commonwealth. The regulations at 400 CMR 4.00 are being proposed to satisfy the latter requirement.

Written comments on the proposed regulations will be accepted from the opening of the public comment period on August 9, 2019 until September 9, 2019 at 5:00 P.M. Written comments should be submitted by email to jonathan.cosco@mass.gov or mailed to: Jonathan Cosco, Executive Office of Housing and Economic Development, One Ashburton Place, Room 2101, Boston, MA 02108. Copies of the proposed regulations are available on the EOHED website at: <https://www.mass.gov/orgs/executive-office-of-housing-and-economic-development> or may be obtained by calling Jonathan Cosco at 617-788-3628.

By Mike Kennealy
Secretary of EOHED

Small Business Impact Statement
(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 400 CMR 4 (Public Registry of Lodging Operators)

Estimate of the Number of Small Businesses Impacted by the Regulation:

The purpose of 400 CMR 4.00 is to set forth the process by which the Executive Office of Housing and Economic Development, in consultation with the Department of Revenue and the Executive Office of technology services and security, shall establish and maintain a registry of “operators” as required by G.L. c. 23A, § 68. The registry requirement was added to chapter 23A by section 1 of chapter 337 of the Acts of 2018 (the “Short-Term Rental Act”).

The Short-Term Rental Act will impact thousands of operators of “short-term rentals” across the Commonwealth by requiring this new category of operators to obtain a certificate from the Department of Revenue under G.L. 62C, § 67 and to collect and remit room occupancy tax under G.L. 64G, § 3. However, the registry itself will consist of data already provided by the operators to DOR. The implementation of the registry will impose no financial or reporting obligation on operators that does not already exist under the Short-Term Rental Act. Neither the registry itself, nor these regulations to implement the registry, are expected to have a material impact on any small business.

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to create, file, or issue additional reports?</p> <p>No. In order to comply with the Short-Term Rental Act, all operators, including small businesses, will be required to obtain a certification from DOR and to collect and remit the room occupancy tax. In addition, operators may also be required to collect and remit optional local taxes. But small businesses will not have more or different reporting requirements as a result of these regulations.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p>No. All operators, including small businesses, will be required to implement additional record-keeping procedures in order to comply with other provisions of the Short-Term Rental Act. However, these regulations relate only to the creation of the operator registry. The registry will include only information that business owners already have provided to DOR.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Will small businesses have to provide additional administrative oversight?</p> <p>No. The implementation of the Short-Term Rental Act is likely require all operators—some of which are small businesses—to provide additional administrative oversight to ensure compliance with certification requirements as well as the collection of the room occupancy tax. However, neither these regulations nor the registry itself will require additional administrative oversight of or by any person or business entity.</p>

Yes <input type="checkbox"/>	No ✓	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. Operators will not have to hire additional employees in order for EOHED to implement the new registry.
Yes <input type="checkbox"/>	No ✓	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No. Operators will not have to hire professional services in order for EOHED to implement the new registry.
Yes <input type="checkbox"/>	No ✓	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No.
Yes <input type="checkbox"/>	No ✓	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? Not applicable.
Yes <input type="checkbox"/>	No ✓	Do any other regulations duplicate or conflict with the proposed regulation? No. The registry is the creation of a new law.
Yes <input type="checkbox"/>	No ✓	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The Short-Term Rental Act imposes on all operators, including owners of Short-Term Rentals, the obligation to remit room occupancy tax and the law could lead to audits, inspections or other regulatory enforcement activities for small businesses. But the registry itself will not lead to such actions.
Yes <input type="checkbox"/>	No ✓	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No.
Yes <input type="checkbox"/>	No ✓	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No.
Yes <input type="checkbox"/>	No ✓	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No.
Yes <input type="checkbox"/>	No ✓	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? Not applicable.
Yes <input type="checkbox"/>	No ✓	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? Not applicable.

Yes <input type="checkbox"/>	No ✓	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? Not applicable.
Yes <input type="checkbox"/>	No ✓	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? Not applicable.
Yes <input type="checkbox"/>	No ✓	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The regulation does not have any adverse impact on small businesses.