

REFERENCE TITLE: short-term rentals; vacation rentals; licensing

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2663

Introduced by
Representatives Kavanagh: Shah

AN ACT

AMENDING SECTIONS 9-500.39, 11-269.17, 42-1125.02 AND 42-5042, ARIZONA
REVISED STATUTES; RELATING TO VACATION RENTALS AND SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 9-500.39. Limits on regulation of vacation rentals and
5 short-term rentals; state preemption; definitions

6 A. A city or town may not prohibit vacation rentals or short-term
7 rentals. A CITY OR TOWN MAY LIMIT THE PERCENTAGE OF VACATION RENTALS OR
8 SHORT-TERM RENTALS BASED ON THE TOTAL HOUSING STOCK IN THAT CITY OR TOWN.

9 B. A city or town may not restrict the use of or regulate vacation
10 rentals or short-term rentals based on their classification, use or
11 occupancy except as provided in this section. A city or town may regulate
12 vacation rentals or short-term rentals ~~for the following purposes~~ AS
13 FOLLOWS:

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

20 2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and
21 zoning ordinances, including ordinances related to noise, protection of
22 welfare, property maintenance and other nuisance issues, if the ordinance
23 is applied in the same manner as other property classified under sections
24 42-12003 and 42-12004.

25 3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation
26 rental or short-term rental for the purposes of housing sex offenders,
27 operating or maintaining a sober living home, selling illegal drugs,
28 liquor control or pornography, obscenity, nude or topless dancing and
29 other adult-oriented businesses.

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

36 5. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
37 TO OBTAIN AND MAINTAIN A LOCAL REGULATORY PERMIT OR LICENSE ISSUED BY THE
38 CITY OR TOWN BEFORE OFFERING A VACATION RENTAL OR SHORT-TERM RENTAL FOR
39 RENT. A CITY OR TOWN MAY REQUIRE THE OWNER OF A VACATION RENTAL OR
40 SHORT-TERM RENTAL TO PROVIDE THE CITY OR TOWN PROOF OF A VALID TRANSACTION
41 PRIVILEGE TAX LICENSE ISSUED PURSUANT TO SECTION 42-5005.

42 6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
43 TO OFFER THE VACATION RENTAL OR SHORT-TERM RENTAL FOR A MINIMUM TWO-NIGHT
44 RENTAL PERIOD.

1 C. Within thirty days after a verified violation, a city or town
2 shall notify the department of revenue and the owner of the vacation
3 rental or short-term rental of the verified violation of the city's or
4 town's applicable laws, regulations or ordinances ~~and, if the owner of the~~
5 ~~vacation rental or short-term rental received the verified violation,~~
6 ~~whether the city or town imposed a civil penalty on the owner of the~~
7 ~~vacation rental or short-term rental and the amount of the civil penalty,~~
8 ~~if assessed.~~ If multiple verified violations arise out of the same
9 response to an incident at a vacation rental or short-term rental, those
10 verified violations are considered one verified violation ~~for the purpose~~
11 ~~of assessing civil penalties pursuant to section 42-1125.02, subsection B.~~

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

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

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

33 G. VACATION RENTALS AND SHORT-TERM RENTALS ARE NOT RESIDENTIAL
34 RENTAL DWELLING UNITS AS DEFINED IN SECTION 9-1301 AND ARE SUBJECT TO THE
35 HEALTH AND SAFETY REGULATIONS PRESCRIBED IN TITLE 36 AND THE RULES ADOPTED
36 BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO TITLE 36 FOR THE
37 TRANSIENT LODGING CLASSIFICATION ESTABLISHED PURSUANT TO SECTION 42-5070.

38 ~~G.~~ H. For the purposes of this section:

- 39 1. "Transient" has the same meaning prescribed in section 42-5070.
40 2. "Vacation rental" or "short-term rental":

41 (a) Means any individually or collectively owned single-family or
42 one-to-four-family house or dwelling unit or any unit or group of units in
43 a condominium, ~~OR~~ cooperative ~~or timeshare~~, that is also a transient
44 public lodging establishment or owner-occupied residential home offered

1 for transient use if the accommodations are not classified for property
2 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

3 (b) DOES not include a unit that is used for any nonresidential
4 use, including retail, restaurant, banquet space, event center or another
5 similar use.

6 3. "Verified violation" means a finding of guilt or civil
7 responsibility for violating any state law or local ordinance relating to
8 a purpose prescribed in subsection B or F of this section that has been
9 finally adjudicated.

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

12 11-269.17. Limits on regulation of vacation rentals and
13 short-term rentals; state preemption;
14 definitions

15 A. A county may not prohibit vacation rentals or short-term
16 rentals. A COUNTY MAY LIMIT THE PERCENTAGE OF VACATION RENTALS OR
17 SHORT-TERM RENTALS BASED ON THE TOTAL HOUSING STOCK IN THAT COUNTY.

18 B. A county may not restrict the use of or regulate vacation
19 rentals or short-term rentals based on their classification, use or
20 occupancy except as provided in this section. A county may regulate
21 vacation rentals or short-term rentals ~~for the following purposes~~ AS
22 FOLLOWS:

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

29 2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and
30 zoning ordinances, including ordinances related to noise, protection of
31 welfare, property maintenance and other nuisance issues, if the ordinance
32 is applied in the same manner as other property classified under sections
33 42-12003 and 42-12004.

34 3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation
35 rental or short-term rental for the purposes of housing sex offenders,
36 operating or maintaining a sober living home, selling illegal drugs,
37 liquor control or pornography, obscenity, nude or topless dancing and
38 other adult-oriented businesses.

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

1 5. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
2 TO OBTAIN AND MAINTAIN A LOCAL REGULATORY PERMIT OR LICENSE ISSUED BY THE
3 COUNTY BEFORE OFFERING A VACATION RENTAL OR SHORT-TERM RENTAL FOR RENT. A
4 COUNTY MAY REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL TO
5 PROVIDE THE COUNTY PROOF OF A VALID TRANSACTION PRIVILEGE TAX LICENSE
6 ISSUED PURSUANT TO SECTION 42-5005.

7 6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
8 TO OFFER THE VACATION RENTAL OR SHORT-TERM RENTAL FOR A MINIMUM TWO-NIGHT
9 RENTAL PERIOD.

10 C. Within thirty days after a verified violation, a county shall
11 notify the department of revenue and the owner of the vacation rental or
12 short-term rental of the verified violation of the county's applicable
13 laws, regulations or ordinances ~~and, if the property owner received the~~
14 ~~verified violation, whether the county imposed a civil penalty on the~~
15 ~~owner of the vacation rental or short-term rental and the amount of the~~
16 ~~civil penalty, if assessed.~~ If multiple verified violations arise out of
17 the same response to an incident at a vacation rental or short-term
18 rental, those verified violations are considered one verified violation
19 ~~for the purpose of assessing civil penalties pursuant to section~~
20 ~~42-1125.02, subsection B.~~

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

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

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

41 G. VACATION RENTALS AND SHORT-TERM RENTALS ARE NOT RESIDENTIAL
42 RENTAL DWELLING UNITS AS DEFINED IN SECTION 11-1701 AND ARE SUBJECT TO THE
43 HEALTH AND SAFETY REGULATIONS PRESCRIBED IN TITLE 36 AND THE RULES ADOPTED
44 BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO TITLE 36 FOR THE
45 TRANSIENT LODGING CLASSIFICATION ESTABLISHED PURSUANT TO SECTION 42-5070.

- 1 ~~G.~~ H. For the purposes of this section:
- 2 1. "Transient" has the same meaning prescribed in section 42-5070.
- 3 2. "Vacation rental" or "short-term rental":
- 4 (a) Means any individually or collectively owned single-family or
- 5 one-to-four-family house or dwelling unit or any unit or group of units in
- 6 a condominium, ~~OR cooperative or timeshare~~, that is also a transient
- 7 public lodging establishment or owner-occupied residential home offered
- 8 for transient use if the accommodations are not classified for property
- 9 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~
- 10 (b) **DOES** not include a unit that is used for any nonresidential
- 11 use, including retail, restaurant, banquet space, event center or another
- 12 similar use.
- 13 3. "Verified violation" means a finding of guilt or civil
- 14 responsibility for violating any state law or local ordinance relating to
- 15 a purpose prescribed in subsection B or F of this section that has been
- 16 finally adjudicated.

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

19 **42-1125.02. Civil penalties; online lodging operators;**
 20 **transaction privilege tax license suspension;**
 21 **definitions**

22 A. An online lodging operator that fails to comply with section
 23 42-5042 shall pay the following civil penalty:

- 24 1. For a first offense, \$250.
- 25 2. For a second and any subsequent offense, \$1,000.

26 ~~B. If an online lodging operator received a verified violation, the~~
 27 ~~online lodging operator shall pay the following civil penalty:~~

28 ~~1. For a first verified violation received for a property, either:~~
 29 ~~(a) If the city, town or county did not impose a civil penalty on~~
 30 ~~the online lodging operator for the verified violation, \$500.~~

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

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

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

40 ~~(b) If the city, town or county imposed a civil penalty on the~~
 41 ~~online lodging operator for the verified violation, the difference between~~
 42 ~~the amount prescribed in subdivision (a) of this paragraph and the amount~~
 43 ~~of the civil penalty the city, town or county imposed on the online~~
 44 ~~lodging operator for the verified violation.~~

1 ~~3. For a third and any subsequent verified violation received on~~
2 ~~the same property within the same twelve-month period, either:~~

3 ~~(a) If the city, town or county did not impose a civil penalty on~~
4 ~~the online lodging operator for the verified violation, fifty percent of~~
5 ~~the gross monthly revenues of the lodging accommodation at which the~~
6 ~~violation occurred for the month in which the violation occurred or~~
7 ~~\$1,500, whichever is greater.~~

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

13 ~~C. If the department imposes a civil penalty pursuant to subsection~~
14 ~~B, paragraph 1 of this section and the online lodging operator appeals the~~
15 ~~civil penalty, the hearing officer may waive or lower the civil penalty~~
16 ~~based on the online lodging operator's diligence in attempting to prohibit~~
17 ~~renters from violating state law or the city's or town's applicable laws,~~
18 ~~regulations or ordinances. In determining whether to waive or lower the~~
19 ~~civil penalty, the hearing officer shall consider both of the following:~~

20 ~~1. Whether rules that prohibit activities violating state law or~~
21 ~~the city's or town's applicable laws, regulations or ordinances were~~
22 ~~included in the advertisement for the lodging accommodation, vacation~~
23 ~~rental or short-term rental.~~

24 ~~2. Whether the rules described in paragraph 1 of this subsection~~
25 ~~were posted in a conspicuous location inside the lodging accommodation,~~
26 ~~vacation rental or short-term rental.~~

27 B. THE DEPARTMENT OF REVENUE SHALL SUSPEND FOR A TWELVE-MONTH
28 PERIOD THE TRANSACTION PRIVILEGE TAX LICENSE OF THE OWNER OF A VACATION
29 RENTAL OR SHORT-TERM RENTAL THAT HAS RECEIVED THREE VERIFIED VIOLATIONS
30 FOR THE SAME VACATION RENTAL OR SHORT-TERM RENTAL WITHIN THE SAME
31 TWENTY-FOUR-MONTH PERIOD PURSUANT TO SECTION 9-500.39 OR 11-269.17.

32 ~~D.~~ C. For the purposes of this section:

33 ~~1. "Lodging accommodation" has the same meaning prescribed in~~
34 ~~section 42-5076.~~

35 ~~2.~~ 1. "Online lodging marketplace" has the same meaning prescribed
36 in section 42-5076.

37 ~~3.~~ 2. "Online lodging operator" has the same meaning prescribed in
38 section 42-5076 and includes an owner of a vacation rental or short-term
39 rental that is not offered through an online lodging marketplace.

40 ~~4.~~ 3. "Vacation rental" and "short-term rental" have the same
41 meanings prescribed in section 9-500.39 or 11-269.17.

42 ~~5.~~ 4. "Verified violation" has the same meaning prescribed in
43 section 9-500.39 or 11-269.17.

1 Sec. 4. Section 42-5042, Arizona Revised Statutes, is amended to
2 read:

3 42-5042. Online lodging operators; requirements; verified
4 violations; penalty; definitions

5 A. An online lodging operator may not offer for rent or rent a
6 lodging accommodation without a current transaction privilege tax license.
7 The online lodging operator shall list the transaction privilege tax
8 license number on each advertisement for each lodging accommodation the
9 online lodging operator maintains, including online lodging marketplace
10 postings.

11 B. THE DEPARTMENT OF REVENUE SHALL SUSPEND FOR A TWELVE-MONTH
12 PERIOD THE TRANSACTION PRIVILEGE TAX LICENSE OF THE OWNER OF A VACATION
13 RENTAL OR SHORT-TERM RENTAL THAT HAS RECEIVED THREE VERIFIED VIOLATIONS
14 FOR THE SAME VACATION RENTAL OR SHORT-TERM RENTAL WITHIN THE SAME
15 TWENTY-FOUR-MONTH PERIOD PURSUANT TO SECTION 9-500.39 OR 11-269.17.

16 ~~B.~~ C. For the purposes of this section:

17 1. "Lodging accommodation" has the same meaning prescribed in
18 section 42-5076.

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

21 3. "Online lodging operator" has the same meaning prescribed in
22 section 42-5076 and includes an owner of a vacation rental or short-term
23 rental, ~~as defined in section 9-500.39 or 11-269.17,~~ that is not offered
24 through an online lodging marketplace.

25 4. "VACATION RENTAL" AND "SHORT-TERM RENTAL" HAVE THE SAME MEANINGS
26 PRESCRIBED IN SECTION 9-500.39 OR 11-269.17.

27 5. "VERIFIED VIOLATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
28 9-500.39 OR 11-269.17.