Government of the District of Columbia
Office of the Chief Financial Officer

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: **The Honorable Phil Mendelson**
Chairman, Council of the District of Columbia

FROM: **Jeffrey S. DeWitt**
Chief Financial Officer

DATE: **October 15, 2018**

SUBJECT: **REVISED Fiscal Impact Statement – Short-term Rental Regulation and Affordable Housing Protection Act of 2018**

REFERENCE: **Bill 22-92, Committee Print provided to the Office of Revenue Analysis on September 26, 2018**

This fiscal impact statement includes costs for the Department of Consumer and Regulatory Affairs and replaces the one issued on October 1, 2018.

Conclusion

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill will cost $21.7 million in fiscal year 2019 and $104.1 million over the four-year financial plan.

Background

The bill establishes restrictions on short-term rentals[1] of property in the District facilitated by a booking service[2], such as the online services Airbnb or HomeAway. The bill also limits all short-term rentals to booking services that provide a rental license number on the listing and requires the District to monitor booking services' compliance with the requirement.

All short-term rentals must be the owner's primary residence, which the bill defines as property eligible for the Homestead deduction.[3] The bill creates a license category under the basic business license for short-term rentals and specifies that the license shall be valid for two years. All short-

[1] The bill defines short-term rentals as paid lodging for transient guests in a host's primary residence that are not a hotel, motel, boarding house, rooming house, or bed and breakfast.
[2] The bill defines booking service as any person or entity that facilitates a short-term rental reservation and collects payment for the rental.
[3] D.C. Official Code § 47-850.

term renters must have a short-term license, liability insurance of at least $500,000[4], and a 24-hour accessible telephone number, to be answered by a person in case of emergency. No license may be issued if renting the property is prohibited by the zoning regulations.

A vacation rental is defined as a rental of an entire home, or a portion of a home, while the owner is not present. The bill requires owners to obtain a vacation rental endorsement (but no additional fee may be charged) prior to renting. Vacation rentals may not be rented more than 90 nights per year.

Short-term rentals cannot exceed eight guests, or two per bedroom, whichever is greater. The bill requires all short-term rentals to post license information within the rental unit, maintain a working smoke detector outside the sleeping area of a rental unit and on all habitable floors of a property, and a carbon monoxide detector on all floors. The unit must provide unobstructed egress from the rental unit in case of afire, and be cleaned between tenants, including change of linens and towels.

Owners must pay all transient lodging taxes and booking services must collect it on their behalf. Both parties must retain records of each rental for two years.

The bill establishes new requirements for short-term rental booking services. Booking services must submit a monthly report to DCRA on all transactions in the District, including names, addresses, and license numbers for the property rented. Booking services are prohibited from booking an individual vacation rental property for more than 90 nights per year, and from booking any rental within five days of suspension of a short-term rental license.

The bill requires the Department of Consumer and Regulatory Affairs (DCRA) to monitor short term rentals for compliance, including monitoring of statistics, and investigate booking services for any suspected violations. DCRA must notify booking services immediately of any non-compliant listings discovered. Owners not complying with the requirements are liable for a civil penalty of $500 for first violation, $2,000 for second violation, and a penalty of $6,000 and a revocation of the license for a third violation. Booking services not complying with the requirements are subject to $1,000 civil penalty for each violating transaction.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill will cost $21.7 million in fiscal year 2019 and $104.1 million over the four-year financial plan.

The bill will reduce nearly all transient lodging revenue currently received from short-term rentals through booking services. This is because the bill will limit listings in several ways and remove the ability of owners of unlicensed short-term rentals to use booking services. First, the bill limits rentals to properties in which the owner is receiving the Homestead deduction, eliminating investor rentals. Second, the bill limits vacation rentals, in which the owner is not present on the property, to a maximum of 90 days per year. Currently such rentals are occurring all year. Third, the bill limits rentals to properties currently zoned for transient rentals. Because approximately 80 to 90 percent of short-term rentals occur in residential zones, this restriction is expected to

[4] The Mayor may adjust this amount by rulemaking.

eliminate nearly all current short-term rentals.[5] Lastly, the bill's license requirement clarifications could reduce the number of short-term rentals that occur through booking sites, potentially disincentivizing the casual renter currently renting only a few times per year. The bill clarifies that licenses are required for all booking transactions and requires booking entities and DCRA to carefully monitor licensures. Therefore, we expect that short-term rental activity that currently takes place but may violate licensure and zoning rules will either cease or move to less prominent channels with reduced occupancy tax compliance.

Lastly, the bill imposes significant administrative requirements on DCRA and will require the establishment of an office dedicated to licensure and monitoring of short-term rentals. The Office of Revenue Analysis assumes staffing requirements will be in line with current business license ratios.[6] Additionally, DCRA plans to build a new web page to submit license applications as well as the required reporting from short-term rental booking services. The website and underlying information technology infrastructure will support DCRA in fulfilling the requirements to monitor listings, analyze statistics, and communicate with licensees and booking services.

[5] We expect that regulations will need to clarify how certain zoning rules (such as mixed-use zones) should apply to short-term rentals. Additionally, residential zones abut small commercial and mixed used zones, and booking agencies do not advertise location data that is specific enough to determine whether certain rentals fall in mixed use or residential zones. We therefore conservatively assume 100 percent of short-term rentals will be affected by the zoning requirement in the bill.

[6] The precise ratio of license to personnel varies by position category. For positions like license staff, inspectors, and investigators there is approximately 1 FTE per 2,500 license applications and renewals. For positions like attorneys and senior staff, there are fewer positions per license application.

Fiscal Impact of Bill 22-92, Short-term Rental Regulation and Affordable Housing Protection Act of 2018 Fiscal Year 2019 – Fiscal Year 2022 ($ thousands)					
	FY 2019[a]	**FY 2020[b]**	**FY 2021**	**FY 2022**	**Total**
Reduced local fund revenue[c]	$14,225	$16,294	$17,109	$17,964	$65,595
Reduced revenue dedicated to Convention Center[d]	$6,206	$7,108	$7,464	$7,837	$28,617
Reduced revenue dedicated to Destination DC[e]	$418	$479	$503	$528	$1,929
TOTAL REVENUE REDUCTION[f]	**$20,850**	**$23,882**	**$25,077**	**$26,330**	**$96,139**
Personnel for licensing, enforcement, data collection and monitoring (Approx. 20 FTEs)	$507	$1,565	$2,150	$2,215	$6,438
Office Equipment and Fleet	$103	$311	$21	$21	$458
Information Technology	$250	$750	$53	$53	$1,106
TOTAL	**$860**	**$2,627**	**$2,224**	**$2,290**	**$8,000**
TOTAL COST	**$21,711**	**$26,510**	**$27,301**	**$28,620**	**$104,141**

[a] Assumes 11 months of reduced revenue for fiscal year 2019. Also assumes a ramp up of administrative costs, 25 percent of total costs in fiscal year 2019, and 75 percent of total costs in fiscal year 2020, with full costs in fiscal year 2021.

[b] Assumes the ramp up of staffing continues in fiscal year 2020, requiring 75 percent of expected full funding requirements.

[c] Estimate is calculated based on publicly reported figures including total short-term rental guests, average length of stay, and estimated market share of short-term rentals. Currently, 10.2 percent of gross receipts is available for the local fund.

[d] Under current law, 4.45 percent of gross receipts from charges for transient accommodations are dedicated to the Convention Center. (D.C. Official Code § 47–2002.02)

[e] Currently, 0.3 percent of gross receipts from charges for transient accommodations are dedicated to Destination DC. (D.C. Official Code § 47–2002.03)

[f] Of the total revenue reduction, we estimate that 20.5% can be attributed to the bill's primary residence requirement, or $4.274 million in fiscal year 2019, $4.896 million in fiscal year 2020, $5.141 million in fiscal year 2021, $5.398 million in fiscal year 2022 and $19.709 million in total. Any revenue loss that may be attributed to the vacation rental limitation is included in these estimates.