

Begin forwarded message:

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Date: January 3, 2019 at 5:16:51 PM EST

To: "Cyr, Julian (SEN)" <Julian.Cyr@masenate.gov>, "Veloza, Jordan (SEN)" <Jordan.Veloza@masenate.gov>, "Sandberg, Leslie (SEN)" <Leslie.Sandberg@masenate.gov>

Subject: Some background information on the new short term rental law

Dear Town Managers and Administrators,

Happy New Year to you all. Senator Cyr asked me to compile some information to send to you on the new short-term rental law.

Senator Cyr is pleased that the House, Senate, and Governor found common ground on a few final points before the end of session, one of which led to the passage of a new short-term rental tax law (House Bill 4841) that was signed into law by the Governor on December 27th. This will bring significant revenue to your town coffers, to the state, and to a newly created Cape Cod and Islands Water Protection Fund, to bring state raised revenue to address our urgent and region-wide wastewater challenges.

It has become clear though in recent days that there is confusion in our communities about components in the bill, what applies to which towns, etc. And especially from realtors and other renters who are confused on how and which tax rate to collect from customers booking rentals for the summer of 2019. And that a lot of these constituents are calling your town halls looking for information.

In this email I'm sharing our office's best understanding of the new law. But would strongly suggest you reach out to DOR with questions, as the implementation and interpretation of the new law is their responsibility. Everything below and attached is our office's understanding and interpretation of the new law. But like you, we're awaiting more final and official information from DOR on the implementation of the new law.

The new law starts taxation on rentals beginning July 1, 2019 or after, for which rental agreements/contracts have been signed on January 1, 2019 or later. And it creates a DOR registration requirement which is further outlined in the new law.

It is our assumption that when the compromise bill was agreed to last month, DOR would have signed off on the dates and deadlines that applied to them. We had figured that they had prepared a FAQ document and other guidance materials already over the past few months, in anticipation of this bill passing in informal session, which was widely expected. We figured they'd have something on their website providing instructions to realtors, renters, and online rental platforms immediately once the Governor signed the bill. That was not the case though, leading many to fly blind in recent days. And organizations like the Cape and Islands Association of Realtors to create their own summary documents to distribute to their members.

The only guidance we've been given so far by DOR is to direct constituents with questions to Jennifer DeSimone, a DOR constituent services manager (her email: desimonej@dor.state.ma.us). She has been extremely helpful to constituents, and reported to our office today that a public FAQ and guidance document on this new law will be going online on DOR's website by tomorrow. We're hoping this will help considerably.

In the coming weeks Senator Cyr anticipates conversations will pick up, and meetings/ conference calls scheduled regarding the Cape Cod and Islands Water Protection Fund (CCIWPF), the formation of the board etc. Senator Cyr hopes you share his enthusiasm for the promise of this fund to tackle our region's wastewater needs. Our office will be preparing and updated summary document on the CCIWPF and will send that around in the coming days.

We also want to clear up some confusion about the CCIWPF and which towns it applies to, etc. In the new law it stipulates that all 15 Barnstable County towns are automatically members of the fund (and the 2.75% excise tax is applied to all room occupancy within those towns, meaning hotels/motels/BnBs/short term rentals etc) as all 15 towns within Barnstable County are under a DEP approved 208 plan and court mandated via the Conservation Law Foundation lawsuit to address wastewater and sewerage needs. All 15 towns within Barnstable County cannot opt out from the fund or from the 2.75% excise being assessed within their town for at least one year, as outlined in the new law.

Towns within Nantucket and Dukes Counties are not automatically members of the CCIWPF and the 2.75% excise does not automatically apply within those towns. Those towns need to opt in to join the fund, which would then trigger the 2.75% excise tax to then be applied to room occupancy within their town.

Further, on the base taxes: the state portion 5.7% is assessed on all room occupancy, towns have a local option of 2, 4, or 6%, and each town has the opportunity to further adopt a 3% Community Impact Fee if they choose. It is our understanding that of the 20 towns in Senator Cyr's district all are either currently at 4 or 6% for a room occupancy local option, except for Gosnold and West Tisbury that have not yet or ever elected/adopted a room occupancy local option tax, so they're at 0% for their room occupancy local option currently.

We've heard some questions regarding the need for each of your towns to add town meeting articles on the local options, opt-in vote for the CCWPF for Nantucket and Dukes County towns etc. We would suggest you contact DOR or seek guidance from your Town Counsel on each of those, and which require town meeting or Select Board votes.

A few (hopefully) helpful links:

1) The law as signed by the Governor: <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter337> (note: there is some confusion about the state tax being listed as 5% in section 3 of the law. It is our understanding that the correct state tax rate is 5.7% on all room occupancy. It's our understanding that that 5% reference in this new law is superseded by another prior law that sets that state room occupancy tax rate at 5.7% - but we're seeking more complete clarification on that).

2) A summary put out by the Cape and Islands Association of Realtors: <https://www.cciaor.com/shorttermrentals/> (note: there is currently an error in this summary that states that Dukes and Nantucket county towns are automatically members of the CCIWPF, that is being corrected by CCIWOR staff).

And a few things are attached:

1) A summary of the bill/law including the changes made in the final version signed by the Governor.

2) A chart showing our current understanding of tax rates by town within Senator Cyr's district. You'll see that the towns on the Cape appear to be either at 12.45% or 14.45%, and rates for the Dukes and Nantucket county towns vary and are in the attachment.

Please feel free to share this email and information with fellow town staff, Select Board members, constituents, etc. We hope its helpful and we'll send around further updates as available.

Best,

Pat

Pat Johnson, *Chief of Staff*

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