

HOUSE No. 2586

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel Cahill and Brendan P. Crighton

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relating to economic development and supporting the infrastructure that enables it.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>1/19/2017</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>2/3/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>1/19/2017</i>

HOUSE No. 2586

By Messrs. Cahill of Lynn and Crighton of Lynn, a petition (accompanied by bill, House, No. 2586) of Daniel Cahill, Brendan P. Crighton and Thomas M. McGee relative to lodging marketplace registration, taxation and distribution. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relating to economic development and supporting the infrastructure that enables it.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws, as appearing in the 2014 Official Edition, are hereby
2 amended by inserting after chapter 65C, the following chapter:-

3 CHAPTER 65D

4 Section 1. Definitions

5 As used in this chapter, the following words shall have the following meanings:

6 “Lodging Marketplace” means a platform through which an unaffiliated third party
7 offers to rent a vacation rental or short-term rental to an occupant and collects the consideration
8 for the rental from the occupant. For the purposes of this paragraph, “unaffiliated third party”
9 means an entity that is not owned or controlled, directly or indirectly, by the same entity or
10 person.

11 “Lodging Accommodations” means any space offered to an individual or entity for
12 lodging, including any hotel, motel, inn, tourist home or house, resort, campground, lodging
13 house, rooming house, residential home, apartment, dormitory, public or private club, boat,
14 mobile home or house trailer at a fixed location or other similar structure or space not otherwise
15 required to pay taxes under chapter 64G.

16 “Lodging Operator” means a person that rents to an occupant any Lodging
17 Accommodation offered through a Lodging Marketplace.

18 “Lodging Transaction” means a charge to an occupant by a Lodging Operator for the
19 occupancy of any Lodging Accommodation resulting from the use of a Lodging Marketplace.

20 “Vacation Rental” or “Short-Term Rental” means any individually or collectively owned
21 single-family house or dwelling unit or any unit or group of units in a condominium, cooperative
22 or timeshare, or owner occupied residential home, that is offered for a fee and for less than thirty
23 consecutive days. Vacation Rental and Short-Term Rental do not include a unit that is used for
24 any nonresidential use, including retail, restaurant, banquet space, event center or another similar
25 use.

26 Section 2. Registration of Lodging Marketplaces

27 A Lodging Marketplace shall register with department of revenue for the payment of
28 taxes levied by the Commonwealth for taxes due from a Lodging Operator on any Lodging
29 Transaction facilitated through the Lodging Marketplace.

30 Notwithstanding any other law, a Lodging Operator shall be entitled to an exclusion from
31 any applicable taxes for any Lodging Transaction facilitated by a Lodging Marketplace for

32 which the Lodging Operator has obtained from the Lodging Marketplace written notice that the
33 Lodging Marketplace is registered with department of revenue to collect applicable taxes for all
34 Lodging Transactions facilitated by the Lodging Marketplace, and transaction history
35 documenting tax collected by the Lodging Marketplace.

36 A Lodging Marketplace that is registered with the department of revenue shall not be
37 required to list or otherwise identify any individual Lodging Operator.

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39 The department of revenue shall develop a uniform application and establish criteria for
40 the approval of said registration with the agency. The department may require a reasonable fee
41 for initial registration and renewal of the same.

42 Section 3. Imposition of Excise Tax

43 An excise is hereby imposed upon the transfer of occupancy of any Lodging
44 Accommodations through the business of operating a Lodging Marketplace or, in the case of a
45 Lodging Marketplace that is registered pursuant to this act, on any Lodging Transaction
46 facilitated by the Lodging Marketplace at the rate of five per cent of the total amount of rent for
47 each such occupancy.

48 The tax may not be collected from a Lodging Operator with respect to any Lodging
49 Transaction or transactions for which the Lodging Operator has received written notice or
50 documentation from a registered Lodging Marketplace that it has or will remit the applicable tax
51 with respect to those transactions to department of revenue pursuant to this act.

52 Section 4. Distribution of Funds

53 There shall be a Lodging Marketplace Trust Fund. The commissioner of the department
54 of revenue shall be the trustee of the fund and shall expend money in the fund to address the
55 impact of lodging marketplaces, as defined in section 1 of chapter 65D of the General Laws.
56 There shall be credited to the fund: (i) any excise assessment collected pursuant to section three
57 of this act; and (ii) any interest earned on money in the fund. Amounts credited to the fund shall
58 be expended by the commissioner pursuant to subsection (c) without further appropriation.
59 Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

60 (b) Annually, not later than February 1, each registered Lodging Marketplace shall
61 submit the required excise and a breakdown of the municipalities where such Lodging
62 Accommodations were rented, as a result of a transaction, to the department of revenue. Not later
63 than June 30, the commissioner shall post on the department's website the aggregate number of
64 vacation or short term rental transactions from the previous calendar year for each city or town.

65 (c) The department of revenue shall: (i) proportionately distribute fifty percent (50%) of
66 the amount received from the fund to a city or town based on the number short-term or vacation
67 rentals within a city or town from the previous calendar year for the improvement of road and
68 water infrastructure (ii) distribute forty percent (40%) of the amount collected to the
69 Massachusetts Clean Water Trust established in chapter 29C of the General Laws to provide
70 financial assistance in the funding of water infrastructure projects or any other purpose
71 authorized under chapter 29C; and (iii) distribute ten percent (10%) of the amount collected to
72 the department of revenue for administration and enforcement of this act.

73 (d) Annually, a city or town receiving funds from the Lodging Marketplace Trust Fund
74 shall submit a report to the commissioner of the department of revenue not later than December

75 31 detailing the projects and the amount used or planned to be used for infrastructure-related
76 projects as described in subsection (c). The commissioner shall compile the reports and post the
77 projects and amounts of money used on the website of the department.

78 Section 5. Local Option Excise

79 A municipality may elect to assess and collect a local tax in accordance with Mass. Gen.
80 Laws ch. 64G, §3A on lodging accommodations covered under this act. Said excise collected
81 under this section shall be collected and disbursed in the same manner as identified in Mass.
82 Gen. Laws ch. 64G, §3A.

83 Section 6. Regulatory Authority

84 The commissioner of the department of revenue shall adopt regulations to carry out the
85 purposes of this act.