

# Home Sharing - The Other Way To Stay (August 16, 2015)

## INTRODUCTION

In recent years, the growth of the "sharing economy" has led to new ways to utilize properties for personal gain.

While home sharing has opened up new avenues for travel and income generation, it has also brought new risks and exposures.

### How does it work?

Home sharing, or short term rentals, are terms generally referring to services that connect guests looking for rentals with homeowners or renters seeking to rent out their homes, spare rooms in their homes, or apartments for compensation. These rentals may be on an extremely short-term (i.e. as short as one night) basis or as long as several months.

These services can include acting as a host and renting out such spaces to others, or acting as a guest and utilizing someone else's' space.

Home sharing services provide a mobile and easily accessible online platform that is appealing to a variety of individuals seeking to earn additional income. For example, young adults with student loan debt or retirees short on retirement savings can take in guests and rent out spare bedrooms to earn extra income. In addition, these services are beneficial to travelers that cannot afford to stay at high-priced hotels. Tenants may also profit with short-term apartment rentals as home sharing websites have become an easy resource for tenants to earn income by subletting their apartment.

These types of services have gained popularity as over 1.8 million listings are available for rent worldwide. Home sharing may occur in both owner-occupied and non-owner occupied residences and the cost to rent these accommodations can range from under \$100 to several thousands of dollars depending on the length of stay.

To assist in preventing possible misrepresentation and identify fraud, many online home sharing services perform background and identity-verification checks. In addition, the users of these services (both hosts and guests) create a profile which includes photographs and information about themselves and their accommodations and receive a rating based on their experience. These ratings can then assist in screening potential guests and hosts. However, these services can vary by provider. In addition, despite these security measures, there have been reported incidents involving excessive property damage and theft of valuable items as a result of participation with home sharing services.

## **Additional Services Offered**

### **INSURANCE COVERAGES**

#### **Home Sharing Companies**

According to publically available information, home sharing companies generally provide certain protection for property and liability exposures related to home sharing. However, this protection is subject to limitations and exclusions. For example, one company provides:

- Up to one million dollars of first party property coverage, but limited or no coverage is provided for cash, jewelry, and collectibles, among other things.
- Up to one million dollars of third party liability coverage per occurrence in the event of a covered claim for bodily injury or property damage, but the coverage only applies for occurrences in the United States.

Another company provides coverage only in the event of internet fraud, material misrepresentation, denial of entry when the renter was not at fault and wrongful deposit loss. The home sharing companies generally advise users that this protection is not insurance and that they should review their own homeowner's insurance policy to understand whether or not there is coverage for their property due to the rental of an insured location.

#### **Homeowners Insurance**

The ISO Homeowners Policy Program primarily addresses coverage for owner-occupants of a dwelling, as well as tenants and condominium unit owners, but also includes many long-standing provisions which address rentals. For example:

- Eligibility - the Homeowners Program's Eligibility requirements state, in part, that a Homeowners Policy may be issued to the owner-occupant(s) of a one-, two-, three or four-family dwelling which is used exclusively for private residential purposes. It further states a one-family dwelling may not be occupied by more than one additional family or two roomers or boarders.
- Property Coverages - the Property Coverage section of the Homeowners Policy states, in part, that:
  - Coverage for personal property of roomers, boarders and other tenants is excluded, except property of roomers and boarders related to an insured.
  - Coverage for theft of an insured's personal property from that part of a residence rented by an insured to someone other than another insured is

generally excluded. However, optional coverage is available for loss by theft of an insured's personal property from that part of the residence premises occupied by an occasional tenant, roomer or boarder, members of the tenant's household, or their employees (emphasis added). An example is when the residence is rented to others for a specific event taking place near the residence, such as a golf tournament or the Olympics.

- Coverage is limited for appliances, carpeting and other household furnishings in each apartment on the residence premises regularly rented or held for rental to others by an insured.
- Coverage D - Loss Of Use specifically provides coverage for fair rental value.
- Liability Coverages - the Liability Coverages section of the Homeowners Policy also specifies that there is no liability coverage arising out of or in connection with a business (which given the definition of "business" in the policy would generally include rentals) conducted from an "insured location" or engaged in by an "insured", whether or not the business is owned or operated by an "insured" or employs an "insured". However, there are certain exceptions to this exclusion, i.e., for occasional rentals if used only as a residence or parts of an "insured location" if used as a residence, but not if a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders. Additionally, liability for property damage to property rented to, occupied or used by or in the care of an insured would generally be excluded.

### **Potential Exposure Considerations**

The potential loss exposures of home sharing can vary according to the party using the service. For example:

- **Hosts** - A homeowner host renting their residence on a short term basis to others may incur accidental property damage to their home. Also, the likelihood of theft and/or vandalism may increase if the host is not on-site during the rental. Lastly, if a guest is injured while staying at the hosts' residence, or causes injury to others, the host may be held liable for medical expenses, damages for bodily injury liability, or both.
- **Guests** - Persons acting as guests in someone else's' residence may cause bodily injury or property damage to others while at the residence, potentially triggering a liability exposure to the homeowner as the property owner.
- **Landlords** - In some instances, municipal restrictions or lease provisions may prohibit a tenant from acting as a host for a home sharing services. However, in the event a tenant rents their entire apartment to a guest, and one or more persons

are injured, the landlord could potentially be held liable as the owner of the property. Additionally, damage may also occur in the common areas of a commercial residential building as a result of the actions of a guest leaving the landlord potentially liable notwithstanding his lack of knowledge of the home sharing activity taking place on the premises.

### **How Are States Responding?**

While statewide legislation or regulations specifically addressing home sharing has been minimal (see Appendix A), some states and cities already have certain laws in place which place restrictions on short-term rentals of single-family homes, apartments or rooms. For example:

- The New York State Multiple Dwelling Law provides, in part, that a class A multiple dwelling shall only be used for permanent residence purposes. For the purposes of this definition, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more and a person or family so occupying a dwelling unit shall be referred to here-in as the permanent occupants of such dwelling unit. The following uses of a dwelling unit by the permanent occupants thereof shall not be deemed to be inconsistent with the occupancy of such dwelling unit for permanent residence purposes:
  - occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons living within the household of the permanent occupant such as house guests or lawful boarders, roomers or lodgers; or
  - incidental and occasional occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons when the permanent occupants are temporarily absent for personal reasons such as vacation or medical treatment, provided that there is no monetary compensation paid to the permanent occupants for such occupancy.
- The New York City Hotel Room Occupancy Tax must be paid on the occupancy, or the right of occupancy, of a room or rooms in a hotel. A "hotel" includes an apartment, hotel, motel, boardinghouse, bed-and-breakfast, bungalow, or club, whether or not meals are served. The occupant of any room or rooms in a hotel must pay the tax. Hotel operators and remarketers (when a room has been purchased through a re-seller) collect the tax from the occupant.
- San Francisco Ordinance No. 218-14, which recently took effect, amended Administrative Code Chapter 41A.5.(g), to allow some residential properties to conduct short-term residential rentals. The Administrative Code, in part, now states that a permanent resident may offer his or her primary residence as a short-term residential rental (periods of less than 30 nights) if the permanent resident:

- occupies the residential unit for no less than 275 days out of the calendar year in which the residential unit is rented as a short-term rental;
  - maintains records for two years demonstrating compliance with this Chapter; and
  - maintains liability insurance appropriate to cover the short-term rental in the aggregate of not less than \$500,000 or conducts each short-term residential rental transaction through a Hosting Platform that provides equal or greater coverage.
- Portland, Oregon recently amended Chapter 33.207 of Title 33, Planning and Zoning (Zoning Code) to provide, in part, that an accessory short-term rental is where an individual or family resides in a dwelling unit and rents bedrooms to overnight guests for fewer than 30 days. A resident must occupy the dwelling unit for at least 270 days during each calendar year.

### **What Is ISO Doing To Address The Home Sharing Exposure?**

Recognizing that insurers may have differing appetites as to the desirability of the home sharing exposure, ISO is currently developing several different products for use by its customers:

- Advisory Notice to Policyholders - ISO anticipates developing an advisory policyholder notice for use with a base (unendorsed) Homeowners policy. This notice will provide a mechanism for insurers to advise their policyholders of the extent of coverage provided under their Homeowners policies, and also encourage notification to the insurer of any home sharing activity by the policyholder. In addition, ISO anticipates developing a policyholder notice for each of the options discussed below.
- Home Sharing Exclusion - ISO anticipates developing an optional endorsement that would exclude certain property and liability coverages under a Homeowners policy arising out of participation in home sharing. However, the new option would, to the extent possible, be designed to apply to renters originating from a home sharing service and would segregate and preserve existing coverages for occasional rentals, as well as roomers and boarders.
- Homeowners Enhanced Home Sharing Coverage Option - Recognizing that, in regard to insureds engaged in home sharing activities, some insurers may wish to provide a broadened level of coverage over the coverages that may currently be available under the ISO base Homeowners policies, ISO is currently developing an option that would provide some enhanced coverages. Listed below are several coverages provisions which are currently under review as part of the enhanced option:

- Corresponding Host and Guest Enhancements - ISO believes that homeowners policyholders who act as hosts for a home sharing service in their own home may be more prone to similarly use home sharing services as guests when traveling. For this reason, the enhanced option being considered by Staff would provide enhanced coverages for both scenarios (ie, when acting as a host and when acting as a guest).
- Other Insurance and Sources of Recovery - As mentioned previously, and according to publically available information, home sharing companies generally provide certain property and liability protections in the event of guest damages or injury. However, this protection may not be characterized as insurance and is generally only provided as excess to other existing insurance or other sources of recovery. Additionally, some home sharing companies encourage the use of security deposits, which could be coupled with individual dispute resolution between the parties. Lastly, the new option will, to the extent possible, address regulatory requirements that mandate a certain level of liability coverage when engaging in home sharing.
- Theft - ISO is also considering an enhanced level of theft coverage as part of the new option.
- Potential Additional Coverages - ISO is also considering the need for certain additional coverages, such as the examples listed below, as part of the development of this option:
  - Loss of Rents/Income - when a booking cannot be completed due to unforeseen events-- such as severe weather conditions.
  - Wrongful Loss of Security Deposit - when a security deposit is wrongfully withheld.
  - Personal and advertising injury - when there are accusations of slander or defamation of character associated with, in general, the rating or description of a host or guest.
  - Material misrepresentation- when the property is significantly different than was described in the listing.
  - Denial of entry - when a person is unable to gain access to the property due to foreclosure, bankruptcy, double booking or other circumstances.

## **Home Sharing/Short Term Rental Companies Pending/Current Legislation and Regulations As of 8/12/2015**

The following chart provides a summary of pending/current state legislation and regulations that relate to home sharing and/or short term rental activities.

The Description column contains the following categories of information:

- **Definitions** - Indicates whether the law/regulation contains definitions relating to home sharing mechanisms and/or short term rental activities.
- **Registration/Reporting Requirements** - Indicates whether the law/regulation addresses registration and/or reporting requirements for persons or entities engaging in home sharing and/or short term rental activities.
- **Taxation Requirements** - Indicates whether the law/regulation addresses taxation requirements for persons or entities engaging in home sharing and/or short term rental activities.
- **Inspection Requirements** - Indicates whether the law/regulation addresses property inspection requirements for persons or entities engaging in home sharing and/or short term rental activities.
- **Insurance Coverage Requirements** - Indicates whether a law/regulation addresses required insurance for certain coverages, as indicated within. Those coverages may include:
  - Bodily injury liability insurance
  - Property damage liability insurance
- **Disclosure Requirements** - Indicates whether a law/regulation requires persons or entities engaging in home sharing and/or short term rental activities to provide certain disclosures.

Refer to the applicable law or regulation for a full description of each requirement.

**\*CAUTION:** This summary contains certain laws and regulations reviewed by ISO. It is intended to assist you in your advanced planning but should NOT be used as a substitute for your independent review of all laws and regulations to determine those requirements which affect your operations. ISO makes no warranties, expressed or implied, that this is an exhaustive, all-encompassing summary of all laws and regulations that may have an impact on your operation.

**Home Sharing/Short Term Rental Companies  
Pending/Current Legislation and Regulations  
As of 8/12/2015**

State	Bill/Law/Regulation	Status	Description
CA	Senate Bill 593	Pending	Definitions - Yes <sup>1</sup> Registration/Reporting Requirements - Yes <sup>2</sup> Taxation Requirements - Yes <sup>3</sup> Inspection Requirements - No Insurance Requirements - No Disclosure Requirements - No
CA	Senate Bill 761	Pending	Definitions - Yes <sup>4</sup> Registration/Reporting Requirements - No Taxation Requirements - No Inspection Requirements - No Insurance Requirements - No Disclosure Requirements - Yes <sup>5</sup>
MA	House Bill 2618	Pending	Definitions - Yes <sup>6</sup> Registration/Reporting Requirements - Yes <sup>7</sup> Taxation Requirements - Yes <sup>8</sup> Inspection Requirements - No Insurance Requirements - Yes <sup>9</sup> Disclosure Requirements - Yes <sup>10</sup>

<sup>1</sup> Section 53171(a)

<sup>2</sup> Section 53171(b)

<sup>3</sup> Section 53171(d)

<sup>4</sup> Section 22590

<sup>5</sup> Section 22592

<sup>6</sup> Section 1

<sup>7</sup> Section 6(f)(iv)

<sup>8</sup> Section 2

<sup>9</sup> Section 6(f)(iii)

<sup>10</sup> Section 6(f)(viii)



**Home Sharing/Short Term Rental Companies  
Pending/Current Legislation and Regulations  
As of 8/12/2015**

State	Bill/Law/Regulation	Status	Description
<b>RI</b>	2015 R.I. Pub. Laws ____ (former HB 5900)	Enacted 6/30/2015	Definitions - Yes <sup>11</sup> Registration/Reporting Requirements - No Taxation Requirements - Yes <sup>12</sup> Inspection Requirements - No Insurance Requirements - No Disclosure Requirements - No

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<sup>11</sup> Section 42-63.1-2

<sup>12</sup> Section 44-18-36.1