

## **Talkers on SB1086 / HB1020 --- STRP Industry Bill**

### **ZONING**

Can't prohibit STRPs in city

Can't restrict the use or regulate STRPs unless can demonstrate clear and convincing evidence that law is least restrictive means to regulate

- Who knows "least restrictive" – ambiguous, subjective, vary and litigation
- Clear and convincing – high standard, highly probable; not used anywhere else zoning; standard imposed on DCS to take children; remove parental rights; worker's comp
- Ban residential? Distinction with respect to owner-occupied to owner not residing? Occupancy limits? Caps as percentage of homes in area? Number of days in month/year?
- Effectively a prohibition -- 72% in TN on AirBnb advertise entire home – purely commercial
- No natural or common right guaranteeing ability to rent out your home. Common law and case law – all equal right to free enjoyment of property which means no nuisance and zoning has been accepted means of ensuring equal enjoyment.
- Zoning has been domain of local government for 80 years – community desires and wishes.

However, once in the neighborhood, then subject to same ordinances as all other residential homes in the city.

Silent on whether HOAs and Condo Associations can preclude

No registration, permitting or licensing; unless is least restrictive.

### **TAXES**

STRPS must collect and remit sales tax

STRPs subject to hotel-motel – same rate as hotels

- HomeAway, VRBO – Individual owner controls transaction and must collect and remit
- AirBnb – Host transaction. Individual owner responsible, but bill creates mechanism for AirBnb to begin collecting and remitting sales and hotel-motel on behalf of owners in 2019. Remitted to Department of Revenue. Revenue allocate and distribute sales and hotel-motel to cities monthly take 1.125% fee for hotel-motel, if AirBnb. State audit. Silent on what happens in the interim with respect to collections due to state and locals.

STRPS are exempt from business tax

- No registration or permitting and no business license, then no idea how know where they are located or how many operating in city.

**HEALTH AND SAFETY**

STRPs required to have smoke and carbon monoxide alarms and owner is responsible for maintaining, repairing and testing alarms.

STRPs required to have \$500,000 in liability insurance. Hotels required to have \$500,000 in p/c and \$500,000 liability.

STRPs with pools are exempt from inspection required of hotels pools and public pools.

If city has adopted mandatory sprinkling requirements, then apply to STRPs as well, if they were built after requirement adopted by city.

No registration or permitting problem for health and safety

**ADVERTISING**

STRPS cannot advertise that hotel-motel or sales tax will be paid by provider or that will be waived or refunded.