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ROOMSCORE 2016: SHORT-TERM RENTAL REGULATION IN U.S. CITIES

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INTRODUCTION

In recent years, discussion of the so-called "sharing economy" has dominated local politics in many cities across the country, and drawn no shortage of hand-wringing from policymakers about how to regulate it. While so-called "ridesharing" services like Uber and Lyft have generated headlines for their disruption of taxi and limo markets, emerging demand for "roomsharing" is disrupting existing hotel and bed-and-breakfast markets with a similar recipe of innovation: technological advancement that empowers individuals to engage in new forms of commerce that expand and improve service for consumers.

Short-term-rental (STR) services allow individuals to rent a home, apartment or even just a single bedroom for short-duration stays, usually just a few days at a time, using Web-based platforms that advertise to travelers. The services help provide lower-cost lodging to visitors, while allowing property owners to earn returns on underused assets. As the STR market has grown, it also has roused the interest of regulators and generated dozens of legislative battles over proposals to curtail that growth.

For the past two years, the R Street Institute has examined the regulatory climate for transportation services in 50 of America's largest cities. Through our Ridescore project, we have assessed the burden of state and local rules governing transportation network companies (TNCs), taxis and limos, and assigned both individual and composite scores and letter grades based on cities' openness to innovation and new business models in the for-hire transportation market.[1]

With this report, we set out to perform a similar function for short-term rental regulation. Roomscore looks at 59 cities to assess their openness to commerce conducted through services like Airbnb; HomeAway (and its related brand, Vacation Rentals by Owner or VRBO); FlipKey (a brand of TripAdvisor); and even Craigslist. We hope the results provide a comprehensive analysis of the evolving policy climate for short-term-rentals, illuminating trends and highlighting

1. Andrew Moylan and Zach Graves, "Ridescore 2015: Hired driver rules in U.S. Cities," R Street Institute, December 2015. http://www.rstreet.org/wp-content/uploads/2015/12/RSTREET48.pdf

successes and failures that could guide cities and states toward regulatory frameworks that foster innovation and economic growth.

PARALLELS WITH RIDESHARING

The parallels between the debates over TNCs and those regarding Web-enabled short-term rentals are legion. Earlier versions of both ridesharing and roomsharing have existed on small scales for many years, but the Internet has made it supremely easy to connect buyers and sellers on a scale never before possible. With Web-based smartphone applications available to lower search costs, catalog user feedback and make billing simple, even the most casual users now are able both to provide and to procure such services with ease.

Like TNCs, short-term rentals have the potential to make significant contributions to economic growth by unlocking underutilized capital, of both the physical and human varieties. As R.J. Lehmann and I discussed in a 2014 R Street policy brief, there is a substantial body of evidence pointing to the growth potential from freeing what economists would call "trapped capital," such as spare bedrooms and underused vehicles.[2] Modern technology now allows millions of people who own underutilized homes or apartments to put that space into the stream of commerce with the addition of a relatively small amount of labor to manage and advertise a property. This both expands the supply of available lodging for travelers and allows property owners to enjoy new kinds of returns on their assets.

Much like TNCs, short-term-rental services also enable markets to respond more quickly and more thoroughly to fluctuating supply-and-demand dynamics. A useful illustration can be found during Pope Francis' 2015 visit to Philadelphia. Officials expected more than 1 million visitors for the occasion, but the city had only 11,200 hotel rooms to offer.[3] Short-term-rental companies empowered individual homeowners to help fill that gap. Airbnb reported a 270 percent increase in listings, while HomeAway saw a 795 percent increase in demand and a 450 percent increase in inventory. Many of those listings are likely attributable to "casual" users of the systems, those who saw a financial opportunity for this special occasion but do not regularly rent their properties.

While a once-in-a-generation event like a papal visit serves as an interesting test case, there are innumerable smaller-scale examples as well. STR listings surged significantly last year in San Diego in conjunction with the famous Comic-Con International entertainment and comic-book convention.[4] Events like the National Collegiate Athletic Association's Final Four basketball tournament and the Indy 500 race put the services on the radar of officials in Indianapolis.[5] In January 2013, the first presidential inauguration of the "short-term rental era" engendered huge spikes in use.[6] In each case, the availability of convenient short-term-rental options helped alleviate supply crunches and provide affordable lodging options for visitors.

ECONOMICS OF SHORT-TERM RENTALS

This phenomenon has contributed to massive valuations for short-term-rental companies. After raising $1.5 billion in a single financing round in June 2015, Airbnb's valuation is now estimated at $25.5 billion.[7] That makes it the third-largest privately held startup in the world, behind only ride-sharing company Uber and electronics maker Xiaomi. It also exceeds the market cap of such hotel chains as Marriott, Starwood and Wyndham, a staggering achievement for a business that has existed for less than a decade.[8] Meanwhile, HomeAway, publicly traded on the Nasdaq Stock Market, recently was acquired by Expedia Inc. for $3.9 billion.[9]

These data suggest that short-term-rental companies are carving out a slice of the proverbial economic pie of lodging, challenging established hotel brands and changing the face of travel and tourism. There also is some evidence that STR is disrupting the relatively staid hotel market. One recent report from a Credit Suisse equity analyst speculated that short-term-rental services may be contributing to soft hotel demand and a recent drop in the sector's revenues in New York City.[10] The Credit Suisse report pointed to STR services' ability to "pressur[e] pricing on the margin," yielding lower costs and wider options for visitors.

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2. Andrew Moylan and R.J. Lehmann, "Five principles for regulating the peer production economy," R Street Institute, July 2014. http://www.rstreet.org/wp-content/uploads/2014/07/RSTREET26.pdf

3. Max Kutner, "Airbnb hosts cash in as Philadelphia hotels fill for Pope's visit," *Newsweek*, Sept. 24, 2015. http://www.newsweek.com/pope-philadelphia-mass-airbnb-homeaway-rentals-376130

4. Beau Yarbrough, "Comic-Con 2015: Airbnb triples reservations for upcoming convention," *Los Angeles Daily News,* July 2, 2015. http://www.dailynews.com/lifestyle/20150702/comic-con-2015-airbnb-triples-reservations-for-upcoming-convention

5. Anthony Schoettle, "Airbnb gets foothold in Indianapolis," *Indianapolis Business Journal*, Feb. 7, 2015. http://www.ibj.com/articles/51651-airbnb-gets-foothold-in-indianapolis

6. Shilpi Paul, "1200 Percent: The Airbnb Inauguration Spike," *Urban Turf,* Jan. 16, 2013. http://dc.urbanturf.com/articles/blog/1200_percent_increase_the_airbnb_inauguration_spike/6524

7. Scott Austin, Chris Canipe and Sarah Slobin, "The Billion Dollar Startup Club," *Wall Street Journal,* Feb. 18, 2015. http://graphics.wsj.com/billion-dollar-club/?co=Airbnb

8. Alison Griswold, "Airbnb Is Thriving. Hotels Are Thriving," *Slate*, July 6, 2015. http://www.slate.com/articles/business/moneybox/2015/07/airbnb_disrupting_hotels_it_hasn_t_happened_yet_and_both_are_thriving_what.html

9. Frederic Lardinois, "Expedia Acquires Airbnb Rival HomeAway For $3.9B," *TechCrunch*, Nov. 4, 2015. http://techcrunch.com/2015/11/04/expedia-acquires-airbnb-rival-homeaway-for-3-9b/

10. Nick Vivion, "Is Airbnb responsible for the softening in New York RevPAR," *TNooz*, Feb. 11, 2015. http://www.tnooz.com/article/airbnb-responsible-softening-new-york-revpar/

A Boston University study focused on Austin, Texas estimated that Airbnb's popularity precipitated an 8 to 10 percent drop in that metro area's hotel revenues.[11] The BU study concluded that Airbnb helped to "reduc[e] hotel pricing power during periods of peak demand," as high demand drew added supply to the market. This effect was particularly pronounced in lower-priced markets and on boutique hotels that do not typically cater to business travelers.

But for all the signs pointing to short-term rentals taking a growing share of the lodging pie, there's substantial evidence that they simultaneously are serving to expand the size of that pie. Moreover, the services' emergence clearly has provided downward pressure on lodging prices in ways that benefit consumers. Indeed, the largest purveyors of short-term-rental services will have to both expand the pie and put price pressure on the dominant market players if they are to justify their lofty valuations, which have come despite a limited history of demonstrated profitability.

Despite concerns about the impact of STR on traditional hotels, it appears the lodging industry's fundamentals are quite strong. The American Hotel and Lodging Association reported that revenue grew from $163 billion in 2014 to $176 billion in 2015.[12] A Morgan Stanley equity analyst report projected increases in hotel-occupancy rates from an already-strong 65 percent in 2014 to more than 69 percent in 2017.[13] The number of hotels and number of rooms both expanded, as well. A report from STR Inc. – a hotel-research firm whose name does not refer to short-term rentals – projects a 6 percent rise in revenue this year.[14] After predicting the next few years would be "great," industry analyst Amanda Hite quipped: "We keep saying this won't continue, but it keeps continuing." In other words, whatever impact short-term rentals are having on the hotel industry, it cannot be characterized as an existential crisis.

This stands to reason, given that hotels and short-term rentals largely cater to different markets. For example, a Morgan Stanley survey found that stays of a single night made up 25 percent of hotels' business, but just 7 percent of Airbnb's. This reflects that many hotels are clustered in city centers to better service business travelers, while Airbnb reports that large percentages (including 72 percent of San Francisco listings and 82 percent of New York properties) of short-term rentals are found outside central districts.[15]

REGULATION OF SHORT-TERM RENTALS

The economic picture painted by rapid growth of the short-term-rental industry is a rosy one, premised on continued expansion and revitalization of the lodging sector. But that same rapid growth has contributed to a decidedly blurry policy picture. As STR has taken hold in markets across the country, regulators, lawmakers and, especially, industry competitors have responded with an at-times vigorous backlash. Opponents have offered a raft of legislative and regulatory proposals to restrict short-term rentals in various ways, such as limiting where they can legally operate, imposing requirements for tax collection and remittance, and enforcing strict licensing regimes. In some cases, these rules have been added to limitations governing property rentals that already were on the books.

Proponents of STR regulations frequently pitch their proposals as helping to address purported issues with traffic and noise or the availability of affordable housing, though there are other, more targeted policy options available to lawmakers who seek to solve such problems. Cities nearly always have ordinances to address traffic and noise complaints, whether a property is rented or not. Where new problems arise related to congestion or noise, they are best addressed holistically, rather than a piecemeal approach that targets only short-term rentals.

Questions about the impact of STR on affordable housing are slightly thornier. Some STR opponents have claimed that, because units reserved for the short-term-rental market are unavailable for long-term rentals, the effect of the market's growth has been to exacerbate housing shortages and put upward pressure on prices. But Michael Lewyn, an assistant professor at Touro Law Center, recently detailed some of the problems with this claim, including its assumption that a significant portion of Airbnb units otherwise would be available for long-term rentals.[16] Moreover, the same charge could be directed at hotel rooms that aren't set aside for long-term rental or at homeowners who don't make spare rooms available for rent.

There's little evidence the current or near-term-future scale of short-term rentals is sufficiently large to have a significant impact on housing affordability. To take one example, Airbnb units comprise just 0.6 percent of Los Angeles' total number of housing units and just 1 percent of its rental market. These

11. Georgios Zervas, Davide Proserpio and John W. Byers, "The Rise of the Sharing Economy: Estimating the Impact of Airbnb on the Hotel Industry," Boston University, Jan. 27, 2016. http://people.bu.edu/zg/publications/airbnb.pdf

12. Christopher Elliott, "Big Hotels' Plan to Win Customers from Airbnb," *Fortune*, Jan. 27, 2016. http://fortune.com/2016/01/27/big-hotels-airbnb/

13. Alice Truong, "Why the hotel industry isn't afraid of Airbnb (yet), explained in five charts," *Quartz*, Nov. 17, 2015. http://qz.com/551612/why-the-hotel-industry-isnt-afraid-of-airbnb-yet-explained-in-five-charts/

14. Market Report, "Positive 2015 and 2016 Outlook for the U.S. Hotel Industry," STR Inc., Aug. 7, 2015. http://www.hotelnewsresource.com/article84973.html

15. Airbnb, "Airbnb Economic Impact," Airbnb Blog, accessed March 6, 2016. http://blog.airbnb.com/economic-impact-airbnb/

16. Michael Lewyn, "Airbnb and Affordable Housing," *Planetizen*, April 21, 2015. http://www.planetizen.com/node/75968/airbnb-and-affordable-housing

are hardly the conditions for massive disruption in the available housing stock.

Focusing concern about the lack of available housing on short-term rentals would be to miss the forest for a mere twig. A wide range of academic literature and anecdotal evidence suggests that the real culprits – restrictive zoning laws – have had an outsized impact on housing availability and affordability, often making it impossible to build at the density level that would allow developers to meet the demand for lower-cost housing. In many cities, exhaustive permitting processes and meddlesome neighborhood committees also make building new housing arduous and expensive, if not impossible. Addressing these issues would do a great deal more to alleviate housing crunches than any regulation of short-term rentals could.

Furthermore, as Hoover Institution Senior Fellow Richard Epstein wrote in 2014, "the whole point of markets is to make the best allocations of scarce resources under rapidly changing conditions."[17] While it may not please policymakers, it may, in fact, be the case that the highest and best use for a small slice of units is to be rented on a short-term, rather than long-term basis.

ROOMSCORE METHODOLOGY

In an effort to offer comprehensive analysis of existing rules across the country, we researched the legal and regulatory climates in 59 cities to assess their openness to short-term rentals. These assessments include both local and state requirements, since both can have significant impact on the ability to engage in STR. Beginning in summer 2015, we exhaustively reviewed municipal and state codes, proceedings of legislative sessions, legal filings and press reports to help illuminate the state of short-term-rental regulation. R Street researchers also initiated conversations with lodging regulators in cities where insufficient information was available to make determinations. A detailed description of the methodology follows.

We looked at five key policy areas. Each city started with a base score of 90. Points were added or deducted based on the following questions:

1. *Does the city have a tailored legal framework for short-term-rental regulation?* While short-term rentals are a relatively new phenomenon, they appear to be here to stay. Because the services straddle the line between purely commercial ventures like hotels or bed-and-breakfasts and purely personal uses, cities are well-advised to craft modern, tailored structures that appropriately account for genuine public-policy questions, while leaving most details to free and open market competition.

   In our methodology, where a city has a recently crafted regulatory structure that explicitly acknowledges and creates a legal foundation for rentals conducted on a short-term basis – including language geared toward rental of single bedrooms within an apartment or home – it is eligible to receive as many as 10 additional points. Cities with laws crafted only to accommodate vacation rentals, and that do not specifically acknowledge true "roomsharing" arrangements, are eligible for a smaller number of additional points.

2. *What, if any, legal restrictions are in place to curb short-term rentals?* This category seeks to assess the restrictions cities place on the ability of property owners to engage in short-term rentals. Some jurisdictions make rentals of less than a certain duration (say, 30 days) completely illegal. Others enforce myriad geographic restrictions, making it difficult or impossible to rent properties outside of certain designated zones. Still others place caps on the number of days per-year that a property can be made available to rent, among many other limitations.

   Perhaps most prominently, a large number of cities restrict rentals based on whether or not a property owner will be present on the premises during a guest's stay. Some simply prohibit any "non-hosted" stays outright, which effectively makes vacation home rentals illegal. Other cities have the opposite prohibition, and bar "hosted stays" where a property owner rents a room in a home or apartment where he or she will be present.

   In our scoring, legal restrictions on the ability to engage in short-term rentals could net cities deductions of up to 40 points, based on their severity. A city that regards short-term rentals as completely illegal would receive the full 40-point deduction. More modest restrictions generate smaller deductions. A city with no legal prohibitions would receive no deduction at all.

3. *What tax-collection obligations are placed on STR services?* Much of the debate surrounding STR services – and particularly, the hotel industry's objections – has centered on requiring such services to collect lodging taxes on behalf of city and state officials. While it's certainly true that lodging-tax rates are nearly always much more burdensome than ordinary sales-tax rates, this category is not intended to calculate the tax cost to consumers. It instead is used to determine which entity the law establishes as the

17. Richard A. Epstein, "The War against Airbnb," Hoover Institution, Oct. 20, 2014. http://www.hoover.org/research/war-against-airbnb

responsible party for collecting a tax, should city and state officials determine that one must be imposed.

This distinction is important, since some municipalities have attempted to force STR platforms to collect all taxes, regardless whether their business model justifies such a requirement. For example, a free advertising site like Craigslist or a subscription-based short-term-rental platform would have no ability to verify and track that a transaction had been conducted between a prospective buyer and seller, let alone possess the ability to assess and remit the appropriate lodging taxes. In cases like these, the service does not serve as a financial intermediary between the two parties.

Our judgment is that, in most cases, the appropriate public policy is to allow for compliance with tax rules either by individual property owners or by the platform, where warranted by circumstances or where the platform chooses to make tax-collection and remittance services available to its customers.

We reviewed local rules that force all STR platforms to comply with all tax obligations in ways that may prove ill-fitting with some business models. Furthermore, we found a few cities that impose taxes on short-term rentals that are disproportionate to those imposed on ordinary hotels and bed-and-breakfasts. In both cases, such rules could net a city a deduction of as many as 5 points.

4. *How burdensome and expensive is the city's licensing regime for short-term rentals?* We attempted to assess how difficult it is for a property owner engaged in short-term rentals to comply with city and state licensing requirements. While basic licensing for enforcement purposes need not pose an unworkable burden, some cities impose much more onerous requirements than others. Forcing property owners to jump through numerous expensive hoops serves as a significant barrier to entry, unnecessarily restricting short-term rentals in much the same way that excessive licensing weighs down other businesses.

   To assess licensing burdens, we looked at the requirements each city imposes over a five-year time horizon. Through this process, we determined how many licenses or filings a property owner would be required to submit within five years, as well as the total cost of any regulatory fees and assessments. Based on the severity of licensing burdens, cities received deductions of as many as 10 points. For cities with minimal licensing requirements, such as a single inexpensive filing, no points would be deducted. For those that required multiple annual license renewals or that imposed a disproportionately expensive process, larger deductions were assessed.

5. *How hostile is the city's enforcement regime for short-term rentals, including restrictions that don't fit neatly into the prior categories?* This category is intended to assess rules that are fundamentally hostile to short-term-rental services. These can take the form of unnecessarily burdensome inspection regimes; disproportionately high insurance requirements; restrictive occupancy limits; mandates to provide vehicle parking spaces; prescriptive regulation of a host's location and/or accessibility; and many others.

   We assessed deductions of as many as 10 points in this category, depending on the severity of the structures in place.

Points in each of these categories were added to or deducted from the base score of 90 to yield a city's Roomscore. We also assigned an associated letter grade that serves to measure that city's openness to innovative short-term-rental services. The results of our analysis follow.

TAILORED LEGAL FRAMEWORK

An overview of the legal frameworks that local jurisdictions have adopted to regulate short-term rentals show a policy environment that is relatively "immature," in much the same way that the ridesharing policy environment was when we completed our first Ridescore analysis in 2014. In that study, just 19 of the 50 cities analyzed had ridesharing-specific legislation, while another four had temporary operating agreements that allowed their operation.[18]

For Roomscore, just 21 of the 59 cities in our analysis received credit for having some sort of tailored legal framework that recognizes short-term rentals and provides a foundation for their operation. Of those 21 cities, 14 received the full 10-point addition for having a modern structure that fully accounts for STR: Anaheim, California; Austin, Texas; Boulder, Colorado; Fort Lauderdale, Florida; Galveston, Texas; Louisville, Kentucky; Maui, Hawaii; Nashville, Tennessee; Philadelphia; Portland, Oregon; Sacramento, California; San Francisco; San Jose, California; and Savannah, Georgia.

To be clear, not all of these 21 cities have ideal policy climates for STR, by any means. In fact, only four of them received overall grades of A. Many layer on restrictions in other areas that drag their overall scores down significantly, factors which are accounted for through deductions in other categories. The tailored legal framework category is instead

18. Andrew Moylan, Ryan Xue, Evan Engstrom and Zach Graves, "Ridescore 2014: Hired driver rules in U.S. cities," November 2014. http://www.rstreet.org/wp-content/uploads/2014/11/RSTREET29.pdf

TABLE I: LEGAL FRAMEWORK (0 TO +10)

CITY	POINTS	CITY	POINTS	CITY	POINTS
Albuquerque, N.M.	0	Fresno, Calif.	0	Oakland, Calif.	+3
Atlanta	0	Galveston, Texas	+10	Oklahoma City	0
Asheville, N.C.	+5	Houston	0	Omaha, Neb.	0
Anaheim, Calif.	+10	Indianapolis	0	Orlando, Fla.	0
Austin, Texas	+10	Jackson Hole, Wyo.	0	Philadelphia	+10
Baltimore	0	Jacksonville, Fla.	0	Phoenix	0
Boston	0	Kansas City, Mo.	0	Portland, Ore.	+10
Boulder, Colo.	+10	Las Vegas	+3	Raleigh, N.C.	0
Charleston, S.C.	+5	Long Beach, Calif.	0	Sacramento, Calif.	+10
Charlotte, N.C.	0	Los Angeles	0	San Antonio	0
Chicago	+3	Louisville, Ky.	+10	San Diego	+5
Cleveland	0	Maui County, Hawaii	+10	San Francisco	+10
Colorado Springs, Colo.	0	Memphis, Tenn.	0	San Jose, Calif.	+10
Columbus, Ohio	0	Mesa, Ariz.	0	Santa Barbara, Calif.	0
Dallas	0	Miami	0	Savannah, Ga.	+10
Denver	0	Milwaukee	0	Seattle	+5
Detroit	0	Minneapolis	0	Tucson, Ariz.	0
El Paso, Texas	0	Nashville, Tenn.	+10	Virginia Beach, Va.	0
Fort Lauderdale, Fla.	+10	New Orleans	0	Washington	0
Fort Worth	0	New York	0	AVERAGE	+2.9

intended to measure how forward-looking the city is with regard to contemplating disruptive innovation in lodging. The results show that simply being forward-looking in crafting an STR-specific regulatory structure is far from sufficient to ensure a broadly permissive legal climate.

A representative example of the type of city to which we awarded the full 10-point addition can be found in Savannah. The genteel southern tourist haven recently passed a short-term-rental amendment to its city code that effectively recognizes and legalizes the services in residential areas citywide. The only limitations are relatively modest ones related to occupancy and square footage. Compliance is secured through a single license and collection of the city's (also modest) 6 percent lodging tax, in addition to ordinary sales tax. This commonsense approach eliminates confusion over the legal status of STR, provides simple avenues to abide by the rules and avoids the temptation to engage in the kinds of onerous regulation found in many other cities across the country.

The other seven cities receiving additional points – Asheville, North Carolina; Charleston, South Carolina; Chicago; Las Vegas; Oakland, California; San Diego; and Seattle – received "partial credit" for having recent structures that account for some, but not all, policy questions specific to short-term rentals. These cities generally tend to have what could be characterized as "vacation rental" ordinances of some sort, which do indeed contemplate short-term rental of whole properties, but do not necessarily account for "roomsharing" services in which a host rents a bedroom in their primary residence.

LEGAL RESTRICTIONS

Our examination revealed that limitations on short-term rentals are fairly widespread, including several cities that effectively ban the practice altogether. Fully 32 of the 59 cities in our analysis imposed some sort of restriction on the legal operation of short-term rentals. The average deduction assessed to cities in this category was -13.3 points, or roughly the equivalent of one-and-a-half letter grades.

In three of the cities – Atlanta, Denver and Oklahoma City – STR is effectively illegal, according to our reading of statutes and discussions with officials. In an additional six cities – Fresno, California; Jacksonville, Florida; Kansas City, Missouri; Los Angeles; New Orleans; and Santa Barbara, California – restrictions on legal operation are such that STR is practically impossible, though theoretically legal under very narrow circumstances.

The remaining 23 cities have legal restrictions that range from relatively modest to quite strict. In Chicago, for example, hosted stays are generally legal, but non-hosted stays are illegal in a handful of residential districts, netting them a deduction of -10 points in the category.

TABLE 2: LEGAL RESTRICTIONS (0 TO -40)

CITY	POINTS
Albuquerque, N.M.	0
Atlanta	-40
Asheville, N.C.	-25
Anaheim, Calif.	0
Austin, Texas	-25
Baltimore	-25
Boston	-15
Boulder, Colo.	-30
Charleston, S.C.	-25
Charlotte, N.C.	0
Chicago	-10
Cleveland	0
Colorado Springs, Colo.	0
Columbus, Ohio	0
Dallas	0
Denver	-40
Detroit	0
El Paso, Texas	0
Fort Lauderdale, Fla.	0
Fort Worth	-30

CITY	POINTS
Fresno, Calif.	-35
Galveston, Texas	0
Houston	-20
Indianapolis	0
Jackson Hole, Wyo.	-30
Jacksonville, Fla.	-35
Kansas City, Mo.	-35
Las Vegas	0
Long Beach, Calif.	-15
Los Angeles	-35
Louisville, Ky.	0
Maui County, Hawaii	-15
Memphis, Tenn.	-25
Mesa, Ariz.	0
Miami	-20
Milwaukee	0
Minneapolis	0
Nashville, Tenn.	-10
New Orleans	-35
New York	-20

CITY	POINTS
Oakland, Calif.	0
Oklahoma City	-40
Omaha, Neb.	0
Orlando, Fla.	0
Philadelphia	-10
Phoenix	0
Portland, Ore.	-20
Raleigh, N.C.	-30
Sacramento, Calif.	-25
San Antonio	0
San Diego	0
San Francisco	-10
San Jose, Calif.	-10
Santa Barbara, Calif.	-35
Savannah, Ga.	0
Seattle	0
Tucson, Ariz.	0
Virginia Beach, Va.	0
Washington	-10
AVERAGE	-13.3

On the more stringent side, Fort Worth, Texas only allows hosted short-term rentals in homes registered as bed-and-breakfasts, a distinction only available to properties constructed before December 1993. Non-hosted stays are limited to commercial zones. So while STR is legal for a small subset of properties, the breadth of the restriction earned them a deduction of -30 points. These types of restrictions, in which a city essentially tells property owners that they're welcome to engage in short-term rentals so long as they're prepared to submit to rules intended for purely commercial ventures, were found in more than a dozen cities.

TAX-COLLECTION OBLIGATIONS

Contrary to our initial assumptions, poorly structured tax-collection obligations did not prove to be a significant problem for cities within our sample. We discovered only five cities with structures that justified point deductions: Galveston, Texas; Oakland, California; Orlando, Florida; Portland, Oregon; and San Francisco. As such, the average deduction in this category was just -0.3 points, amounting to little more than a rounding error overall.

Both Portland and San Francisco impose responsibility for tax collection on short-term-rental platforms, whether or not the platform directly manages transactions between buyers and sellers. This earned each city a deduction of -5 points. Galveston requires monthly reports on hotel-occupancy-tax collections, regardless of rental activity, a nuisance requirement that netted it a deduction of -2 points. Oakland levies on short-term rentals a disproportionately high gross-receipts tax at a rate higher than is imposed on hotels, while Orlando has a one-off agreement with just one company for tax-collection purposes.

In the future, we expect policymakers will have to give more thought to appropriate ways to divvy up tax-collection responsibilities between property owners and short-term-rental platforms. Requiring by law that any and all STR platforms have sole responsibility for collections is the wrong approach, since it fails to distinguish between businesses that serve as financial intermediaries for bookings and those that do not. By the same token, assigning all collection duties to individual property owners is equally problematic, as compliance is likely to be spotty. The "third way" approach of allowing either entity to satisfy tax-collection requirements is the best option for most cities, but could be enhanced with more robust reporting of obligations and easier ways to comply than exist currently.

LICENSING REQUIREMENTS

Our examination of licensing requirements found them to be only a modest factor in cities' overall scores. While 25 of the 59 cities suffered some deduction for excessive licensing burdens, the average point deduction assessed was just -2.0 points.

TABLE 3: TAX COLLECTION (0 TO -5)

CITY	POINTS
Albuquerque, N.M.	0
Atlanta	0
Asheville, N.C.	0
Anaheim, Calif.	0
Austin, Texas	0
Baltimore	0
Boston	0
Boulder, Colo.	0
Charleston, S.C.	0
Charlotte, N.C.	0
Chicago	0
Cleveland	0
Colorado Springs, Colo.	0
Columbus, Ohio	0
Dallas	0
Denver	0
Detroit	0
El Paso, Texas	0
Fort Lauderdale, Fla.	0
Fort Worth	0
Fresno, Calif.	0
Galveston, Texas	-2
Houston	0
Indianapolis	0
Jackson Hole, Wyo.	0
Jacksonville, Fla.	0
Kansas City, Mo.	0
Las Vegas	0
Long Beach, Calif.	0
Los Angeles	0
Louisville, Ky.	0
Maui County, Hawaii	0
Memphis, Tenn.	0
Mesa, Ariz.	0
Miami	0
Milwaukee	0
Minneapolis	0
Nashville, Tenn.	0
New Orleans	0
New York	0
Oakland, Calif.	-5
Oklahoma City	0
Omaha, Neb.	0
Orlando, Fla.	-2
Philadelphia	0
Phoenix	0
Portland, Ore.	-5
Raleigh, N.C.	0
Sacramento, Calif.	0
San Antonio	0
San Diego	0
San Francisco	-5
San Jose, Calif.	0
Santa Barbara, Calif.	0
Savannah, Ga.	0
Seattle	0
Tucson, Ariz.	0
Virginia Beach, Va.	0
Washington	0
AVERAGE	-0.3

TABLE 4: LICENSING REQUIREMENTS (0 TO -10)

CITY	POINTS
Albuquerque, N.M.	-2
Atlanta	0
Asheville, N.C.	0
Anaheim, Calif.	-5
Austin, Texas	-7
Baltimore	0
Boston	-7
Boulder, Colo.	-1
Charleston, S.C.	0
Charlotte, N.C.	0
Chicago	-5
Cleveland	0
Colorado Springs, Colo.	-5
Columbus, Ohio	0
Dallas	0
Denver	0
Detroit	0
El Paso, Texas	0
Fort Lauderdale, Fla.	-10
Fort Worth	-2
Fresno, Calif.	0
Galveston, Texas	0
Houston	0
Indianapolis	0
Jackson Hole, Wyo.	0
Jacksonville, Fla.	0
Kansas City, Mo.	0
Las Vegas	-10
Long Beach, Calif.	-9
Los Angeles	0
Louisville, Ky.	0
Maui County, Hawaii	-5
Memphis, Tenn.	0
Mesa, Ariz.	0
Miami	-2
Milwaukee	0
Minneapolis	0
Nashville, Tenn.	-3
New Orleans	0
New York	0
Oakland, Calif.	-8
Oklahoma City	0
Omaha, Neb.	0
Orlando, Fla.	-4
Philadelphia	-5
Phoenix	0
Portland, Ore.	-4
Raleigh, N.C.	0
Sacramento, Calif.	-1
San Antonio	0
San Diego	-3
San Francisco	-7
San Jose, Calif.	0
Santa Barbara, Calif.	0
Savannah, Ga.	-2
Seattle	-5
Tucson, Ariz.	-5
Virginia Beach, Va.	-4
Washington	-1
AVERAGE	-2.0

TABLE 5: HOSTILE ENFORCEMENT (0 TO -10)

CITY	POINTS
Albuquerque, N.M.	-1
Atlanta	0
Asheville, N.C.	-7
Anaheim, Calif.	-10
Austin, Texas	-5
Baltimore	-5
Boston	-6
Boulder, Colo.	0
Charleston, S.C.	0
Charlotte, N.C.	-3
Chicago	-8
Cleveland	0
Colorado Springs, Colo.	-1
Columbus, Ohio	0
Dallas	0
Denver	0
Detroit	0
El Paso, Texas	0
Fort Lauderdale, Fla.	-10
Fort Worth	0
Fresno, Calif.	-1
Galveston, Texas	-1
Houston	-5
Indianapolis	0
Jackson Hole, Wyo.	0
Jacksonville, Fla.	0
Kansas City, Mo.	0
Las Vegas	-10
Long Beach, Calif.	-3
Los Angeles	0
Louisville, Ky.	-7
Maui County, Hawaii	-10
Memphis, Tenn.	0
Mesa, Ariz.	0
Miami	0
Milwaukee	0
Minneapolis	-5
Nashville, Tenn.	-5
New Orleans	0
New York	-8
Oakland, Calif.	0
Oklahoma City	0
Omaha, Neb.	0
Orlando, Fla.	0
Philadelphia	-5
Phoenix	0
Portland, Ore.	-3
Raleigh, N.C.	0
Sacramento, Calif.	-5
San Antonio	0
San Diego	0
San Francisco	-10
San Jose, Calif.	-5
Santa Barbara, Calif.	0
Savannah, Ga.	-1
Seattle	-3
Tucson, Ariz.	0
Virginia Beach, Va.	0
Washington	-5
AVERAGE	-2.5

Fort Lauderdale, Florida and Las Vegas both suffered full deductions of -10 points for onerous licensing requirements. According to our research, a property owner wishing to offer a short-term rental in Fort Lauderdale would, over a five-year period, need to complete seven forms and pay more than $2,900 in associated fees. Las Vegas makes licensing tough as well, requiring six forms and $2,500 in fees over the same period. The scale and cost of these licensing requirements effectively freezes out large numbers of potential participants in the short-term-rental market, as property owners interested in only very occasionally renting (for example, to capitalize on an influx of travelers for a major local event) quite easily could be priced out by licensing costs alone.

On the milder side, Boulder, Colorado, requires a one-time business license and a four-year short-term rental license for a total cost of $130, earning only a -1 point deduction for the added annoyance of securing two licenses.

HOSTILE ENFORCEMENT

In our analysis, we deducted points from 28 cities for demonstrating hostile enforcement of their regulatory framework. The average deduction was -2.5 points, making enforcement penalties roughly equivalent to licensing penalties in terms of impact on overall scores.

Cities receiving the full deduction of -10 points were Anaheim, California; Fort Lauderdale, Florida; Las Vegas; Maui, Hawaii; and San Francisco. Of these, Fort Lauderdale is a representative example, given that it limits occupancy, requires both initial and ongoing annual property inspections, enforces minimum parking requirements and mandates that an owner or manager reside within 25 miles of a rented property. San Francisco is similarly illustrative, as it forces would-be STR participants to submit to an in-person appointment for licensing, limits all licenses to one unit only, issues licenses only to San Francisco residents, caps non-hosted stays at 90 days and requires $500,000 in liability insurance, among myriad other rules. Combined, these restrictions contribute to dropping each city a full letter grade.

OVERALL RESULTS

For the 59 cities in our sample, the average overall Roomscore was 74.7, equivalent to a letter grade of C. The median score was 73.5, also equivalent to a letter grade of C. The standard deviation among the scores was 14.3, indicating rather wide variance in scoring.

TABLE 6: ROOMSCORE RESULTS

CITY	FRAMEWORK	RESTRICTIONS	TAXATION	LICENSING	ENFORCEMENT	TOTAL	GRADE
Albuquerque, N.M.	0	0	0	-2	-1	87	B+
Atlanta	0	-40	0	0	0	50	F
Asheville, N.C.	+5	-25	0	0	-7	63	D
Anaheim, Calif.	+10	0	0	-5	-10	85	B
Austin, Texas	+10	-25	0	-7	-5	63	D
Baltimore	0	-25	0	0	-5	60	D-
Boston	0	-15	0	-7	-6	62	D-
Boulder, Colo.	+10	-30	0	-1	0	69	D+
Charleston, S.C.	+5	-25	0	0	0	70	C-
Charlotte, N.C.	0	0	0	0	-3	87	B+
Chicago	+3	-10	0	-5	-8	70	C-
Cleveland	0	0	0	0	0	90	A-
Colorado Springs, Colo.	0	0	0	-5	-1	84	B
Columbus, Ohio	0	0	0	0	0	90	A-
Dallas	0	0	0	0	0	90	A-
Denver	0	-40	0	0	0	50	F
Detroit	0	0	0	0	0	90	A-
El Paso, Texas	0	0	0	0	0	90	A-
Fort Lauderdale, Fla.	+10	0	0	-10	-10	80	B-
Fort Worth	0	-30	0	-2	0	58	F
Fresno, Calif.	0	-35	0	0	-1	54	F
Galveston, Texas	+10	0	-2	0	-1	97	A+
Houston	0	-20	0	0	-5	65	D
Indianapolis	0	0	0	0	0	90	A-
Jackson Hole, Wyo.	0	-30	0	0	0	60	D-
Jacksonville, Fla.	0	-35	0	0	0	55	F
Kansas City, Mo.	0	-35	0	0	0	55	F
Las Vegas	+3	0	0	-10	-10	73	C
Long Beach, Calif.	0	-15	0	-9	-3	63	D
Los Angeles	0	-35	0	0	0	55	F
Louisville, Ky.	+10	0	0	0	-7	93	A
Maui County, Hawaii	+10	-15	0	-5	-10	70	C-
Memphis, Tenn.	0	-25	0	0	0	65	D
Mesa, Ariz.	0	0	0	0	0	90	A-
Miami	0	-20	0	-2	0	68	D+
Milwaukee	0	0	0	0	0	90	A-
Minneapolis	0	0	0	0	-5	85	B
Nashville, Tenn.	+10	-10	0	-3	-5	82	B-
New Orleans	0	-35	0	0	0	55	F
New York	0	-20	0	0	-8	62	D-
Oakland, Calif.	+3	0	-5	-8	0	80	B-
Oklahoma City	0	-40	0	0	0	50	F
Omaha, Neb.	0	0	0	0	0	90	A-

CITY	FRAMEWORK	RESTRICTIONS	TAXATION	LICENSING	ENFORCEMENT	TOTAL	GRADE
Orlando, Fla.	0	0	-2	-4	0	84	B
Philadelphia	+10	-10	0	-5	-5	80	B-
Phoenix	0	0	0	0	0	90	A-
Portland, Ore.	+10	-20	-5	-4	-3	68	D+
Raleigh, N.C.	0	-30	0	0	0	60	D-
Sacramento, Calif.	+10	-25	0	-1	-5	69	D+
San Antonio	0	0	0	0	0	90	A-
San Diego	+5	0	0	-3	0	92	A-
San Francisco	+10	-10	-5	-7	-10	68	D+
San Jose, Calif.	+10	-10	0	0	-5	85	B
Santa Barbara, Calif.	0	-35	0	0	0	55	F
Savannah, Ga.	+10	0	0	-2	-1	97	A+
Seattle	+5	0	0	-5	-3	87	B+
Tucson, Ariz.	0	0	0	-5	0	85	B
Virginia Beach, Va.	0	0	0	-4	0	86	B
Washington	0	-10	0	-1	-5	74	C
AVERAGE	+2.9	-13.3	-0.3	-2.0	-2.5	74.7	C

The top overall Roomscore of 97, for a grade of A+, was shared by Galveston, Texas, and Savannah, Georgia. Both cities earned extra points for having tailored short-term-rental frameworks on the books; enacting no significant restrictions on legal operations; and suffering just -3 total points of deductions combined in the categories of tax collection, licensing and hostile enforcement. Galveston missed out on a perfect score due to its tax-reporting requirement and a small nuisance requirement to have a property manager within a one-hour drive at all times. Savannah was docked slightly for requiring frequent licensure.

Just behind those two cities are two recipients of A- grades: Louisville, Kentucky and San Diego, which scored 93 and 92, respectively. While Louisville has a tailored STR framework and hasn't enacted significant legal restrictions, it does have several nuisance requirements (such as requiring a host to be within 25 miles and limiting total occupancy) that tarnish its otherwise sterling framework. San Diego receives only partial credit for having a tailored framework and loses a few points for somewhat meddlesome licensing requirements.

Slotting behind those two is a group of 11 cities that received a Roomscore of 90, for a letter grade of A-: Cleveland; Columbus, Ohio; Dallas; Detroit; El Paso, Texas; Indianapolis; Mesa, Arizona; Milwaukee; Omaha, Nebraska; Phoenix; and San Antonio. We dub this cohort "silent cities," because their municipal codes do not explicitly either allow or prohibit short-term-rental activity. Because their laws are silent on the matter, they don't qualify for any additional points for implementing a modern STR framework, but nor do they suffer deductions for tax, licensing or enforcement problems.

Next come 14 cities that fall in the B range, with scores ranging from 80 to 89. A typical example of this cluster can be found in Tucson, Arizona, which received a score of 85 and a letter grade of B. The city has no special framework and thus earns no additional points, while it suffers just -5 points of deductions to account for somewhat meddlesome licensing requirements.

Only five cities scored in the C range, with tallies ranging between 70 and 79: Charleston, South Carolina; Chicago; Las Vegas; Maui, Hawaii; and Washington. The nation's capital illustrates the kinds of factors that comprise a mediocre overall score. The city has no tailored legal framework for STR and thus gets no added points. It lost -10 points in the legal-restrictions category for prohibiting rentals of more than two bedrooms per-unit. It earns another -5 point deduction for myriad hostile enforcement provisions, such as a prohibition on providing any food to a renter. It lost an additional -1 point for requiring multiple licenses.

Fifteen cities received grades in the D range, between 60 and 69. Boulder, Colorado; Portland, Oregon; Sacramento, California; and San Francisco share the unfortunate distinction of being among the lowest-scoring cities overall, despite having tailored short-term-rental regulations in place. Boulder has an STR law but strictly limits legality based on zoning, in addition to requiring multiple licenses. Portland requires that an owner occupy any STR-eligible property for more than 270 days and divides hosted rentals into two categories, one of which requires special review from the zoning board. Sacramento recently passed a very restrictive framework, although it previously had effectively banned residential

STR. San Francisco bars non-hosted rentals entirely and suffers multiple deductions for tax collection, licensure and hostile enforcement.

Long Beach, California, is somewhat more typical of cities in the D range. It lacks a tailored law, restricts hosted and non-hosted stays substantially, imposes more than $1,000 in licensure costs over five years and maintains several restrictions on matters like entrances, the number of rooms rented and detached units, among others.

Finally, 10 cities received failing grades of F for earning Roomscores of 59 or less: Atlanta; Denver; Fort Worth, Texas; Fresno, California; Jacksonville, Florida; Kansas City, Missouri; Los Angeles; New Orleans; Oklahoma City; and Santa Barbara, California. These cities all either have laws on the books that largely ban short-term rentals or construe their existing laws in ways that make STR impossible, in practical terms.

TRENDS

It's difficult to identify any clear trends that would prove predictive of how cities approach short-term rentals. Some relatively politically conservative cities – like Mesa, Arizona – score quite well. However, other conservative cities, like Oklahoma City, are on the opposite end of the spectrum, having outlawed the practice. Seattle, among the more liberal cities in the country, performed reasonably well, with a Roomscore of 87 and a grade of B+. But San Francisco, itself a liberal bastion, did poorly, with a Roomscore of 68 and a grade of D+.

There also are few identifiable trends that can be derived from whether a city relies heavily on tourism revenues. Savannah, Georgia was the top-scoring city in our entire analysis. But other tourist hotspots – such as Jackson Hole, Wyoming – have so many restrictions as to earn them a grade just barely above failing.

This underscores our observation that the policy environment for short-term-rental regulations remains in flux. Nashville, Tennessee provides an interesting test case. It was a prominent early mover when it attempted to create a comprehensive regulatory infrastructure for STR. While the city acted to create a legal status for short-term rentals, it has encountered significant difficulty in administering the new rules. Some of the rules imposed under Nashville's framework – such as its limitations on rentals per census tract – have ignited controversy and invited a lawsuit by the free-market Beacon Center challenging the law for undermining property rights.[19]

19. Joey Garrison, "Tennessee AG: Airbnb rentals subject to hotel, sales tax," *The Tennessean*, Dec. 3, 2015. http://www.tennessean.com/story/news/2015/12/03/tennessee-ag-airbnb-rentals-subject-hotel-sales-tax/76739660/

Nashville's cautionary tale of good intentions and decidedly mixed results illuminates some of the difficulties facing policymakers as they attempt to strike the appropriate balance between fostering innovation and dynamic new markets, and establishing basic rules that make compliance simple.

CONCLUSION

Our first Roomscore analysis reveals a policy area of considerable difficulty and complexity. As traditional hotels ramp up their lobbying efforts to oppose the growth of short-term-rental services, it will be incumbent upon legislators to focus not on rules that protect dominant market players, but instead on addressing basic public-policy interests, like efficient tax collection and simple licensure. With simple rules in place, regulators can protect the public interest and ensure that competition happens in the open marketplace, not in the back rooms of city councils or state legislatures.

ABOUT THE AUTHOR

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