
THIRD READING

Bill No: SB 1092
Author: Monning (D)
Amended: 4/21/16
Vote: 21

SENATE JUDICIARY COMMITTEE: 6-0, 5/3/16
AYES: Jackson, Moorlach, Anderson, Leno, Monning, Wieckowski
NO VOTE RECORDED: Hertzberg

SUBJECT: Advertising: Internet private residence rental listings: notice

SOURCE: Association of California Insurance Companies

DIGEST: This bill requires residential hosting platforms to provide a notice warning individuals to review any restrictions on coverage under their homeowners' or renters' insurance policy related to short-term rental activities to ensure that there is appropriate insurance coverage in the event of a loss arising out of those activities.

ANALYSIS:

Existing law:

- 1) Requires a hosting platform to provide the following notice to occupants listing a residence for short-term rental on a hosting platform:

If you are a tenant who is listing a room, home, condominium, or apartment, please refer to your rental contract or lease, or contact your landlord, prior to listing the property to determine whether your lease or contract contains restrictions that would limit your ability to list your room, home, condominium, or apartment. Listing your room, home, condominium, or apartment may be a violation of your lease or contract, and could result in legal action against you by your landlord, including possible eviction. (Bus. & Prof. Code Sec. 22592.)

- 2) States that the above notice shall be in a font size that is equal to or greater than 100 percent of the standard font size of the other paragraphs on the hosting platform's Internet Web site or equal to the default font size on the hosting platform's Internet Web site. Existing law specifies that the notice shall be provided immediately before the occupant lists each real property on the hosting platform's Internet Web site, and shall require the occupant to interact with the hosting platform's Internet Web site to affirmatively acknowledge that he or she has read the notice. (Bus. & Prof. Code Sec. 22594.)
- 3) Defines "hosting platform" to mean a marketplace that is created for the primary purpose of facilitating the rental of a residential unit offered for occupancy for tourist or transient use for compensation to the offeror of that unit, and the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining that marketplace. (Bus. & Prof. Code Sec. 22590.)

This bill:

- 1) Requires a hosting platform to provide the following notice to offerors listing a residence for short-term rental on a hosting platform:

You should review any restrictions on coverage under your homeowners' or renters' insurance policy related to short-term rental activities to ensure that there is appropriate insurance coverage in the event that a person sustains an injury or loss for which you are responsible, a person damages or causes loss to your personal or real property, or a claim or lawsuit is made against you or otherwise arises out of activities related to this hosting platform.

- 2) Makes other technical and conforming changes.

Background

In recent years, California has seen a rise in what is known as the "sharing economy," with the influx of ridesharing businesses such as "Lyft" and "Uber," and homesharing businesses such as "Airbnb," "FlipKey," and "VRBO." Generally speaking, homesharing consists of an agreement between two parties in which one party rents out all or part of his or her home to another party on a temporary, one-time basis. Service providers like "Airbnb," "FlipKey," and "VRBO," advertise homes offered for temporary rental and facilitate connecting renters with offerors for a fee.

According to the National League of Cities, “[s]haring economy businesses have been growing in cities, and presenting a new set of challenges and opportunities for policy makers and city leaders. While the sharing economy represents new and exciting possibilities offered by technology platforms, cities are finding that these innovative services also present a new set of safety, taxing and business challenges.” (DuPuis and Rainwater, *The Sharing Economy: An Analysis of Current Sentiment Surrounding Homesharing and Ridesharing*, National League of Cities (2014) <<http://www.nlc.org/Documents/Find%20City%20Solutions/City-Solutions-and-Applied-Research/Sharing%20Economy%20Brief.pdf> [as of March 31, 2016].)

Last year, the Legislature addressed a concern that tenants subletting their rented accommodations through a homesharing service provider could place themselves at risk of eviction if such activity violated their rental or lease agreement. SB 761 (Hall, Chapter 239, Statutes of 2015) directed homesharing service providers – termed “hosting platforms” – to provide a specified notice to offerors that would make them aware of possible restrictions in their rental agreements and leases that could subject them to eviction should they offer their unit for short-term rental.

This bill directs a hosting platform to provide a similar notice to homesharing hosts that warns them to review their insurance coverage to ensure that they are adequately covered for losses arising in connection with short-term rental activities.

Comments

The author writes:

Many homeowners and renters list their residences for short term rental on internet hosting platforms, such as Airbnb, HomeAway, and Vacation Rentals by Owner. Unfortunately, many are unaware of the insurance ramifications if damage to property or injury at the property occurs during the rental period. Some homeowners or renters policies may provide coverage when a “guest” is injured or when the “guest” breaks or damages an item in the home or apartment. Many current insurance policies allow some period of limited commercial use, but the terms can vary significantly based on the insurance company. If the activity is explicitly excluded by the policy, the homeowner or tenant may be liable for injuries or property loss.

It is important for homeowners and renters who make their properties available through internet hosting platforms to understand their insurance coverage and whether it will protect them in the event that something unfortunate occurs

during the short term rental of their property. SB 1092 requires internet hosting platforms to provide a disclosure to homeowners and renters that they should check their homeowners' or rental insurance policies to find out if they are covered before engaging in home sharing activity.

Related/Prior Legislation

AB 2881 (Committee on Judiciary, 2016) adds mobilehomes to the types of residences listed for short-term rental on a hosting platform that would be subject to existing notice and disclosure requirements.

SB 761 (Hall, Chapter 239, Statutes of 2015) required hosting platforms to provide a notice to hosts listing a residence for short-term rental stating that if the occupant is a tenant, listing the residence may violate their lease or contract and could result in legal action by their landlord, including possible eviction. The bill specified that the notice must be provided immediately before an occupant lists each real property on an online platform or Internet Web site, and must require the occupant to interact with the online platform Internet Web site to affirmatively acknowledge that he or she has read the notice.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 5/3/16)

Association of California Insurance Companies (source)
California Apartment Association
CSAA Insurance Group
National Association of Mutual Insurance Companies
Pacific Association of Domestic Insurance Companies

OPPOSITION: (Verified 5/3/16)

None received

Prepared by: Tobias Halvarson / JUD. / (916) 651-4113
5/6/16 14:26:27

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