

Commission Position 12 –Short-Term Rentals

(Recodification adoption June 7, 2022: CP-19 Commission Position on Short Term Occupancy Agreements recodified to CP 12 - Short Term Rentals)

Short-Term Rentals:

A short-term rental is typically a furnished residential property (e.g., apartment, townhome, condo, or house) that is suitable or intended for occupancy for dwelling, sleeping, and lodging purposes, and is available to be rented for a short period of time. A short-term rental is considered an alternative to a hotel where the guest may feel more at home.

License vs. Lease:

A short-term rental or occupancy agreement can be distinguished from a lease in that a short-term rental or occupancy is a license to use property and is not considered Real Estate Brokerage Services. An example of a license to use property would be a hotel reservation where an individual is allowed to use the property but has no rights to it. Conversely, a lease creates an exclusive interest in the property requiring judicial action to extinguish that interest. If the parties follow the terms of the lease, the lease may not be revoked prior to the agreed-upon expiration date. A license to use, on the other hand, allows the owner to have significantly more control over how the property is used and can revoke the license and have the guest removed for violating the terms of the license.

Another characteristic of a short-term rental or occupancy in Colorado is the responsibility of collecting and remitting sales tax to the Colorado Department of Revenue. Dependent on the local jurisdiction where the property is located, the owner may also need to obtain a business license, a lodger's tax license, a short-term permit, and collect and remit additional county or city sales taxes. Taxes are generally collected from guests for rental periods of 30 days or less. While taxing authorities consider rental periods of 30 days or less as short-term rentals, stays longer than 30 days are not automatically considered a lease. While length of stay is one consideration in determining a lease versus a license, other factors to consider include the regular use of the property, the agreement between the parties, the user's expectation of privacy, the conveyance of rights to the property, and how much control the owner has over certain aspects of a guest's conduct. As such, if a property is regularly marketed and used as a short-term rental and a guest books a property for a period longer than 30 days this may not necessarily convert a license into a lease.