

9905 REQUIREMENTS FOR BOOKING SERVICES

- 9905.1 A booking service shall collect the short-term rental license endorsement number for a short-term rental from hosts before booking, so that the license endorsement number can be included on the listing.
- 9905.2 A booking service shall not book a short-term rental in the District of Columbia within five (5) business days upon notice from the Department that the license endorsement for the short-term rental has been suspended or revoked.
- 9905.3 A booking service shall not book a short-term rental that was the subject of notice provided pursuant to § 9905.2, until notified by the Department that the license endorsement for that short-term rental has been reinstated.
- 9905.4 A booking service shall not book a vacation rental for more than ninety (90) nights cumulatively in a calendar year, unless the Department has transmitted to the booking service a notification that the host has received an exemption pursuant to § 9904. For the purposes of complying with this subsection, a booking service may assume that an accommodation is a vacation rental if the license provided by the host has a “Short Term Rental: Vacation Rental” endorsement.
- 9905.5 A booking service shall retain records of all short-term rentals in the District for two (2) years.
- 9905.6 The Department may request from a booking service a report itemizing transactions or specific transactions for which the booking service charged or received a fee for short-term rentals in the District when information warrants a need for the report or records as determined by the Department.
- (a) The report or requested transactions shall include the following information for each transaction:
- (1) The name of the host who provided the short-term rental;
 - (2) The physical address of the short-term rental;
 - (3) The “Short Term Rental” or “Short Term Rental: Vacation Rental” license endorsement number of the short-term rental;
 - (4) The URL at which the short-term rental is listed;
 - (5) The dates for which each transient guest procured use of the short-term rental using the booking service;
 - (6) Whether the short-term rental was booked as a vacation rental; and

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- (7) The rate charged for each short-term rental stay.
- (b) The Department may require this information in an electronic or paper format.
- (c) The report may be requested on a quarterly basis or less frequently as determined by the Department.
- (d) If the booking service does not provide the report or otherwise respond to the Department's request within thirty (30) days, the Department may issue a subpoena for the report or specified transactions. Subpoenas issued under this subsection shall contain the following:
 - (1) The name of the booking service from which the report or transactions are requested;
 - (2) The person at the Department to whom the documents shall be provided;
 - (3) A detailed list of the specific documents, books, papers, or transactions being requested pursuant to § 9905.6(a)(1) – (7);
 - (4) The date, time, and place that the booking service is to produce the report or transactions specified under subparagraph (3) of this paragraph;
 - (5) A short, plain statement of the booking service's rights and the procedure for enforcing and contesting the subpoena; and
 - (6) The signature of the Director or General Counsel approving the subpoena request.
- (e) In the case of a refusal to obey a subpoena issued under this section, the Department may petition the Superior Court of the District of Columbia for an order requiring compliance.
- (f) Any person to whom a subpoena has been issued under this subsection may exercise the privileges enjoyed by all witnesses. A booking service to which a subpoena has been issued may move to quash or modify the subpoena in the Superior Court of the District of Columbia on grounds including:
 - (1) The Department failed to follow or satisfy the procedures set forth in this subsection for the issuance of a subpoena; or

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(2) Any grounds that exist under statute or common law for quashing or modifying a subpoena.

(g) The Department shall not impose any penalties on a booking service for failure to provide the requested report or transactions unless the booking service fails to timely respond or object to a subpoena from the Department under this subsection, or the booking service fails to timely comply with any order from the Superior Court of the District of Columbia requiring compliance with the Department's subpoena issued under this subsection.

(h) The procedures provided for in this subsection shall be in addition to and not in substitution for any other procedures provided by law.

9905.7 Information submitted to the Department pursuant to § 9905.6 shall be considered confidential and shall not be subject to disclosure under the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Code § 2-531 *et seq.*); provided, that the Office of the Chief Financial Officer and the Office of the Attorney General may inspect the information for enforcement purposes.

9905.8 A booking service shall obtain from each host consent to provide the information described in § 9905.6(a) to the Department. Obtaining lawful consent may consist of providing notice to the host that use of such booking service constitutes consent to the Department disclosure. It shall not be a defense to a violation of this section that the booking service did not obtain consent.

9905.9 A booking service shall collect and remit on behalf of hosts all required transient occupancy taxes, as provided under § 9901.11.

SOURCE: Final Rulemaking 68 DCR 012598 (December 3, 2021).