

9904 EXEMPTION FROM 90-NIGHT LIMIT FOR SHORT-TERM RENTAL OPERATING AS A VACATION RENTAL

9904.1 A short-term rental shall operate as a vacation rental for no more than ninety (90) nights cumulatively in any calendar year, unless the host has received an exemption pursuant to this section.

9904.2 A host may submit an application, on a form provided by the Department, requesting an exemption from the ninety (90)-night limit in § 9904.1 if:

- (a) The host's employer, or the host's spouse or domestic partner's employer, requires the host, or the host's spouse or domestic partner, to work outside of the District for more than ninety (90) days cumulatively in any calendar year; or
- (b) The host leaves the District to receive treatment for a serious health condition, or to care for a family member who is receiving treatment for a serious health condition, for more than ninety (90) days cumulatively in any calendar year.

9904.3 If the host is claiming an exemption pursuant to § 9904.2(a), the application submitted pursuant to § 9904.2 shall be accompanied by a notarized form, signed by a representative of the host's employer or the host's spouse or domestic partner's employer, listing the location and duration of the work-related assignments outside of the District; provided, that a self-employed host shall submit a signed affidavit attesting that time spent outside the District is work-related and shall provide documentation of the work-related travel.

9904.4 If the host is claiming an exemption pursuant to § 9904.2(b), the application submitted pursuant to § 9904.2 shall be accompanied by a notarized form, signed by a representative of the health care provider that is providing treatment to the host or the host's family member, attesting to the need for the host or the family member to receive treatment for a serious health condition outside of the District.

9904.5 If the Department determines that the application submitted pursuant to § 9904.2 is valid, the Department shall provide the host an exemption from the ninety (90)-night limit in § 9904.1, allowing the host to operate a vacation rental for the number of nights equal to:

- (a) For a host claiming an exemption pursuant to § 9904.2(a), the number of days that the host's employer or the host's spouse or domestic partner's employer requires him or her to work outside of the District; or
- (b) For a host claiming an exemption pursuant to § 9904.2(b), the number of days that the host is outside of the District to receive treatment for a

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serious health condition or to care for a family member who is receiving treatment for a serious health condition.

- 9904.6 A host shall be required to submit an updated exemption application to the Department upon request and shall notify the Department upon the host's return to the District within ten (10) days after the host's return.
- 9904.7 If the Department issues an exemption to a host pursuant to this section, the Department shall transmit to all booking services on a monthly basis a notification of the number of nights that the host may operate a vacation rental.
- 9904.8 Beginning on July 1, 2021, and every six (6) months thereafter, the Department shall list separately on its website:
- (a) The number of exemptions granted in the previous six (6) months pursuant to § 9904.2(a); and
 - (b) The number of exemptions granted in the previous six (6) months pursuant § 9904.2(b).
- 9904.9 If a host's application requesting an exemption from the 90-night limit in § 9904 is denied, the host may file a written notice of appeal with the Office of Administrative Hearings (OAH).
- 9904.10 All hearings and appeals shall be conducted pursuant to the regulations promulgated by OAH.
- 9904.11 For the purposes of this section, the term:
- (a) "Family member" means:
 - (1) A biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or a person to whom a host stands in loco parentis;
 - (2) A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to a host when the host was a child;
 - (3) A person to whom a host is related by domestic partnership, as defined by Section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), or marriage;
 - (4) A grandparent of a host; or

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(5) A sibling of a host.

(b) “Health care provider” shall have the same meaning as provided in Section 2(5) of the District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501(5)).

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32- (c) “Serious health condition” shall have the same meaning as provided in section 101(20) of the Universal Paid Leave Amendment Act of effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 541.01(20)).

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