

Airbnb Fights New Law on Short-Term Rentals in New York

By Colette Gulick, J.D. Candidate 2018 | October 25, 2016

On October 21, 2016, Airbnb launched a [legal battle](#) in the Southern District of New York against the Mayor of New York City, the City of New York, and the state attorney general after Governor Andrew Cuomo signed a bill into law that possesses the potential to significantly impact the company. Airbnb provides an online platform for residential hosts to directly advertise rental listings for their properties and for guests to make reservations for these properties. Airbnb gains revenue by charging service fees on hosts and guests for the booking process. Airbnb asserts that it helps the middle class by providing a supplemental source of income that can be gained from renting out properties via this online platform.

The new New York law allows for authorities to impose a fine of up to \$7,500 on hosts for posting [rental advertisements](#) that violate local housing regulations by advertising illegal short-term rentals. The applicable 2010 local housing regulation on short-term renting prohibits the rental of an apartment for fewer than thirty days if the owner or tenant is not present during the period. This regulation applies to most apartments in New York and to many of the listings advertised on Airbnb.

Airbnb critics believe that Airbnb allows for illegal activity that damages the [affordable housing market](#) and results in illegal hotels in residential areas that negatively impact neighborhoods. Supporters of this new law argue that many of the advertisements for the illegal short-term rentals are posted by commercial hosts who run *de facto* unchecked hotels and are not advertised by residential property owners or tenants.

Airbnb's lawsuit claims that the new law contradicts the [Communications Decency Act](#) and infringes on the company's constitutional rights. Airbnb argues that its website merely serves as a platform of communication for hosts and users and that the company should not be held liable for the content posted by the third-parties that use the platform. A spokesperson for Governor Cuomo refuted Airbnb's legal claims by pointing out that the new law penalizes the hosts directly for their posted content and that no penalty is imposed on Airbnb by this law.

Airbnb fears that the penalties imposed on the users of its online platform would cause "irreparable harm" to the company. Airbnb sees the recent passage of this law as New York officials acquiescing to the interests of the hotel industry and effectively undercutting Airbnb's benefits and ignoring the interests of residents. The law was signed despite [policy proposals](#) offered by Airbnb on October 19. Some critics of Airbnb saw the last minute list of proposals as a "publicity stunt" and not as an earnest attempt to address the concerns.