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Best in Law: How to Navigate Legal Pitfalls of Using Airbnb

Knowing Local Laws and Rights for Short-Term Rental Success

By **Scott Ditfurth**

Services such as Airbnb and VRBO offer service-sharing alternatives to traditional hotels and rentals. Indeed, these online platforms now provide a billion-dollar service around the world.

While municipal laws, such as those enacted in San Francisco, Santa Monica and Anaheim, are being put in place to regulate short-term rentals, services like Airbnb and VRBO are here to stay.

If you are looking to jump on the Airbnb bandwagon, either as a host or a tenant, there are certain legal issues to know before taking the plunge.

Check Local Regulations

Different cities have various laws and regulations for offering rentals via Airbnb. For instance, some municipalities restrict the location of the rental or the length of time the rental can be used.

Additionally, regulations may require an Airbnb host to register or obtain a permit to operate.

Finally, some types of short-term rentals may be prohibited altogether. Law and regulations vary depending on the jurisdiction, and on what restrictions are in place or how the regulations are enforced. Penalties may include fines or other enforcement.

Pay Your Taxes

Services like Airbnb can provide a decent income stream to help pay bills or earn extra money.

However, almost every jurisdiction requires taxes to be paid for hosting a short-term rental on Airbnb. Because most of the rentals on Airbnb are short-term, transient occupancy taxes, such as those associated with hotels, may be

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applicable. This is why, before listing a short-term rental on Airbnb, you should understand the laws of the city and county in which the property is located.

Know Your Rights

Beginning in 2016, California law requires any “hosting platform” to provide a warning that such a listing could lead to legal action and eviction. This was a result of individuals violating their lease to list their property on Airbnb or other host-sharing platforms. Listing a property on Airbnb may be viewed as an illegal sublease, which could be cause for eviction.

Know Tenants’ Rights

What happens when the Airbnb guest refuses to leave? This is where the issue of Airbnb eviction arises. Under California law, short-term tenants, such as those booked through Airbnb, may acquire tenant rights by satisfying certain criteria, including living in and payment of rent for 30 days.

After these rights are acquired, the Airbnb tenant cannot be removed as a trespasser, but rather must be evicted formally through the unlawful detainer process.

The unlawful detainer process requires that the host give formal notice to the tenant of their eviction and, if unsuccessful, file an unlawful detainer complaint in court to evict the tenant.

The unlawful detainer process may take several months to complete.

At this point, you may be asking, “How do I avoid this from happening?” Well, the truth is, there may be nothing you can do to completely avoid this situation if you are hosting an Airbnb tenant for more than 30 days. However, there are certain things you can do to reduce or minimize the risk.

- First, contact Airbnb immediately if the tenant will not leave after their stay. Also, before agreeing to host a tenant on Airbnb, do your homework. Make sure the tenant is dependable and reliable. Reviews are set up on Airbnb to help facilitate this.
- Next, put your agreement with the tenant in writing. This may not avoid you having to file an unlawful detainer action, but it will provide you with a stronger case if you do have to go to court.
- Next, get an upfront security deposit from the tenant.
- Finally, become familiar with the landlord/tenant laws in your area.

Indeed, Airbnb says it warns hosts that it is their responsibility to know the laws of their jurisdiction.

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