

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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Re: Opposition to the Unconstitutional S2412

We ask that you **oppose** S2412 as this unconstitutional bill will deny New Jersey residents necessary income during this crisis. This bill will also make it harder for the state of New Jersey to provide necessary housing to emergency workers during this crisis.

Today, short-term rentals provide hundreds of thousands of dollars to New Jersey homeowners, many of whom are suffering from lower incomes due to the Coronavirus shutdown. If passed, this bill would essentially require these New Jersey residents to remit promised income. Consider how absurd it would be to require builders to return all upfront payments—and yet, that is exactly what S2412 would do to New Jerseyans who made their homes available for rent.

S2412 would also remove short-term housing from the many first responders and hospital staffers responding to the crisis. Vrbo and Airbnb, for example, are already providing free housing to first responders and medical personnel. But S2412 would disincentive this program and actually eliminate housing stock from the New Jersey market.

If S2412's true goal is to protect travelers, then it would not be limited to short-term rentals; it would include convention centers, cruises, campsites, and anything else that applies to vacations and travel. Instead, the bill has arbitrarily and discriminatorily exempted these heavily used services.

S2412 Violates the Federal and State Constitutions' Takings Clauses

Making matters worse, this bill violates both the U.S. and New Jersey Constitution's Takings Clause and will either be held unconstitutional on its face or interpreted to require the state to provide financial compensation to the platforms and homeowners.

The New Jersey Constitution, Art. I, Para. 20. makes clear that:

Private property shall not be taken for public use without just compensation. Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners.

Likewise, the Fifth Amendment of the U.S. Constitution commands that:

No person shall be held to answer for a capital, or otherwise infamous crime, ... nor shall private property be taken for public use, without just compensation.

And the Fourteenth Amendment of the U.S. Constitution mandates that state governments respect due process before infringing on private property:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law.

Over 200 years of court decisions have made clear that actions like those contemplated in S2412 are unconstitutional unless just compensation is provided. So at a minimum, this bill must include restitution for the seized income.

For all the reasons above, we ask that **you not advance S2412.**

Sincerely,

Carl Szabo
Vice President and General Counsel, NetChoice

NetChoice is a trade association of businesses who share the goal of promoting free speech and free enterprise on the net. www.netchoice.org