

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

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Governor Scott Walker  
Senate President Rodger Roth  
House Speaker Robin Vos

August 4, 2017

**RE: *Opposition relating to: authorizing a lodging marketplace to register with the state for the collection of sales and use tax and room tax revenues and restricting a local government's ability to prohibit or restrict a person from renting out of the person's residential dwelling.***

Dear Governor Walker, Senate President Roth, House Speaker Vos, and Wisconsin legislators,

We respectfully ask that not include the “short-term rental” (STR) proposal language (Proposal) in the budget. We know that states across the country are looking to regulate the STR market. However, the Proposal is the wrong approach at the wrong time.

Jamming this legislation into the budget omnibus does a disservice to all citizens of the state and threatens citizens’ income security. The Proposal’s dramatic actions taken to limit STRs should be discussed as a stand-alone bill. These changes impact the notion of home-ownership, most benefit the hotel cartel, and, at the same time face constitutional challenges.

The Proposal’s dramatic changes to the STR marketplace would:

- Suppress tax collection and compliance
- Hurt local businesses
- Encourage hotels to raise prices
- Send Wisconsin on the wrong path

**Wisconsin businesses and home owners benefit from short-term rentals**

STRs provide needed income to many Wisconsin homeowners. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income hosts earn through short-term rental is used to cover the costs of maintaining their households.

The presence of STRs also brings new money into areas where there are few hotels to bring visitors in touch with local businesses. Consider, for example, families coming for graduation or other ceremonies at University of Wisconsin – Whitewater – a town underserved by hotels but where STRs are available. Short-term rentals via internet platforms are enabling Wisconsin residents to earn income by sharing their homes in these college communities.

And, guests who stay in in these STRs bring income into the district as they visit restaurants, grocery stores, and other businesses there.

### The Proposal imposes new tax liability on Wisconsin travel agents, property managers.

It would be absurd to hold local travel agent responsible for collecting the taxes a travel pays when it stays at a hotel. But that is precisely what the Proposal would require of Wisconsin travel agents and property managers when they book STRs.

Before imposing these new tax requirements on your small businesses, there should be an open and robust discussion.

### The Proposal imposes unreasonable requirements on STRs depresses tax collection

We've seen high compliance rates when localities create reasonable registration and regulation for short-term rentals. By achieving a high level of compliance, Wisconsin would enjoy a more reliable source of tax revenue from registered home owners.

Unfortunately, the Proposal makes compliance more difficult. Consider the limitation of the state preemption to only more than 7 days. Under the Proposal, Wisconsin residents who want to make their homes available via STR for just a weekend or two would be at risk of losing this income.

Such restrictions not only diminish compliance, but would merely send STRs underground. This means less tax revenue for the state and less oversight of short-term rental activity.

### The Proposal makes more difficult for Wisconsin residents to afford their homes

Many families making their homes available as STRs use the additional income to afford their homes. By imposing substantial restrictions on the ability of these families to earn additional revenue on these homes it makes it even harder for them to keep them.

But the Proposal's limitations on STRs shared for less than 7 days makes it harder for Wisconsin families to keep their homes.

### The Proposal hurts local businesses

It's not just the hosts that lose from a diminishing of STRs, but also Wisconsin's local businesses. When travelers save on lodging, they have more to spend at Wisconsin's local restaurants, shops, and stores. Moreover, short-term rentals encourage travelers to visit parts of Wisconsin's not services by hotels.

In essence, short-term rentals mean more money for Wisconsin's smaller businesses.

In fact, a recent survey found that 64% of local voters believed having short-term rentals in the city brings benefits to local residents and the local economy.

### The Proposal's restrictions on short-term rentals encourages hotels to raise prices

Short-term rentals have frustrated hotels as they create price competition that benefits home-owners and travelers alike.

Hotels excitedly exclaimed that laws like the Proposal "should be a big boost in the arm for the business," "certainly in terms of the pricing." Another hotel operator said stated short-term rental companies have frustrated his "ability to price at what maybe the customer would describe as sort of gouging rates."<sup>1</sup>

Moreover, while hotels are complaining about short-term rentals, they are enjoying record level profits and reservations.<sup>2</sup>

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<sup>1</sup> Elizabeth Dwoskin, *Hotel CEO openly celebrates higher prices after anti-Airbnb law passes*, The Wash. Post (October 26, 2016).

<sup>2</sup> Hotel occupancy is on track to reach a record this year, with the national occupancy rate predicted to reach 65 percent in 2015, or the highest since hotel-data provider STR started tracking in 1987 (see CBS Money Watch - *Who is Airbnb really hurting?*).

## The Proposal's requirements on Host Platforms would run afoul of federal laws

It should be noted that taxes are due on STR rentals. However, such taxes are the responsibility of the host, not the platform – the Proposal blurs this distinction.

The internet is an open platform that enables people from all parts of Wisconsin to participate and say whatever they want. While some nations discourage user-generated content, the United States created fertile ground for business models that have transformed the world.

Moreover, this innovation is protected by Section 230 of the federal Communications Decency Act. Section 230 operates as the backbone for our favorite e-Commerce sites. Without Section 230 we might not have platforms like eBay, Kickstarter, Stubhub, HomeAway, or YouTube. Put simply, Section 230 says platforms can't be held strictly liable for content posted by others.

However, the Proposal doesn't respect Section 230. This not only threatens a core tenet of the internet, but is at odds with federal law – resulting in the likely injunction of the Proposal.

## The Proposal fails to create a consistent set of rules for the state

Many states considering legislation on STRs choose to establish state-wide standards rather than allow for a patchwork of local and confusing laws. But the Proposal allows localities to sua sponte disallow STRs less than 7 days. This allows the creation of a patchwork of rules within the state and makes it easier for localities to make Wisconsin an inhospitable destination for tourists.

## A better path for Wisconsin

Instead of moving forward with the Proposal, we instead suggest that you encourage the state legislature to follow Arizona and other states that are taking a reasonable approach to short-term rentals. Arizona successfully and proudly adopted legislation that creates registration requirements for hosts, opportunity for platforms to collect and remit taxes, state-wide standards, and local control for noise and other issues.

We ask that you not deny your constituents the right to earn extra money by sharing their homes. We hope that instead you look to create short-term rental policies developed through an open and transparent dialogue among policymakers, industry stakeholders, property owners, and the public.

So while we ask that you not substantially limit short-term-rentals we welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,



Carl Szabo

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*NetChoice is a trade association of e-Commerce and online businesses. [www.netchoice.org](http://www.netchoice.org)*