

BULLETIN

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New Airbnb Law

Both "Law No. 7464 on Renting of Residences for Tourism Purposes and Amendments to Certain Laws" ("Law"), commonly known as the Airbnb Law, and "Regulation for Residential Rentals for Tourism Purposes" ("Regulation") entered into force as of 01.01.2024. With this law, rentals of residences for a maximum period of 100 days are described as "rental for tourism purposes" and it became mandatory to obtain a permit before making such a rental contract. In addition, many administrative sanctions are foreseen in the law for those who do not have a permit and, in some cases, even for those who have a permit.

Airbnb is a platform that brings homeowners, who want to rent their house or room, and guests, who want to stay daily or for a short period of time, together. Since this law regulates the issues within the scope of the platform, it is known as the "Airbnb Law" by the public.

What is "Rental for Touristic Purposes"

Rental for touristic purposes is defined in the law as "Renting of residences to users for all purposes for a period of one hundred days or less than one hundred days at a time".

When we look at this definition, we first see that only residences are within the scope of this law. In this law, a residence is defined as "any independent section that is registered in the land registry for residential purposes or has a residential construction servitude or condominium on it". Therefore, rentals of tiny houses, caravans, treehouses, bungalows and the like that are not registered in the land registry for residential purposes will not be within the scope of this law.

Secondly, we see that rentals for more than 100 days at a time are excluded from the scope of the law.

Lastly, the rental purpose of the house does not matter. In other words, even renting a house as a workplace, if it is short-term, is considered rental for touristic purposes.

Tourism Residence Certificate

One of the most important consequences of these regulations is that it is now mandatory to obtain a tourism residence certificate for a residence to be rented for touristic purposes. Additionally, those who receive a tourism residence certificate will be given a tourism residence plaque and this plaque must be hung at the entrance of the residence.

How to Obtain a Tourism Residence Certificate

The Ministry of Culture and Tourism (“Ministry”) is authorized to issue the permit, but the Ministry can use this authority through governorships. The obligation to obtain a tourism residence certificate belongs to the owner or the lessor, who is the usufruct/superficion owner. However, group (A) insurance agencies can also apply if they carry out rental activities for tourism purposes. Application for this document can only be made via e-Devlet website as physical applications are not accepted.

Those who previously engaged in rental activities for tourism purposes must apply for a permit within 1 month after the Law comes into force. This process will be concluded within 3 months from the date of application.

Results of Tourism Residence Certificate:

First, those who have a tourism residence certificate are obliged to hang the corresponding plaque at the entrance of the residence. There is also an obligation to report the information of the guests through the Identity Notification System.

Residents are prohibited from renting the house to third parties in their own name and account. As an exception, it is possible for user legal entities to let their own personnel use the housing they rent for tourism purposes.

Requirements to Obtain a Tourism Residence Certificate:

When applying for a tourism residence certificate, a decision from the apartment owners stating that they approve of the rental activity for tourism purposes in question is required:

- A. For a single independent section such as an apartment, the unanimous consent of all apartment owners in the building is required. If the residence is in a residential complex, only the unanimous consent of all apartment owners in the building where the apartment is located is needed.
- B. In buildings with more than three independent sections, a single lessor is only allowed to obtain a tourist residence certificate for a maximum of 25% of the building.
- C. If a lessor will be issued a permit for more than 5 residences in a building, a business and working license is required. If these residences are in a residential complex, the unanimous consent of all apartment owners in this residential complex will also be required.

High-Quality Residences:

High quality residences are exempt from the consent of the apartments' owners if the following conditions are met together:

- A. A provision in the management plan that short-term rental activities are allowed.
- B. Availability of reception, security and daily cleaning service areas; Providing services such as health services, dry cleaning, laundry, transportation, food and shopping services, gym and swimming pool

Termination of Tourism Residence Certificate:

The permit becomes invalid in the following cases:

1. With the death of the real person, unless an application have been made by the heirs within three months from the date of death.
2. If it is a legal person, with the termination of its legal personality.

The permit is canceled in the following cases:

1. Permit holder's request for revocation of permit
2. Determination that the rental activity for tourism purposes has been terminated.
3. Failure to notify the Ministry within a thirty-day period if the lessor changes in a way other than inheritance or if the obligations are not fulfilled even though the change of permit holder is deemed appropriate.
4. Notification by authorized public institutions and organizations that the residence rented for tourism purposes is used contrary to public order, public security and general morality.
5. Failure to correct the discrepancies within the given period despite the determination that the residence does not meet the qualifications required for the issuance of a permit.
6. In cases of both invalidity and cancellation, users' rights continue until the end of the contract period.

Administrative Sanctions

Sanctions for rentals under 100 days without a permit:

- A. Upon first detection, an administrative fine of 100,000 TL for each residence + 15 days period. Upon second detection of continuing the rental without permission, 500,000 TL administrative fine + 15 days period. Lastly 1,000,000 TL administrative fine upon third detection.
- B. An administrative fine of 100,000 TL in case of violation of the above-mentioned "rental prohibitions to third parties".
- C. An administrative fine of 100,000 TL for those who act as intermediaries in renting a house without a permit.
- D. Websites that mediate unauthorized rentals are obliged to remove the advertisement within 24 hours upon the warning of the ministry. If they do not remove it, an administrative fine of 100,000 TL + decision to remove the content and/or block access.
- E. An administrative fine of 1,000,000 TL for those who rent the same house more than four times within 1 year, with contracts lasting longer than 100 days.

Sanctions foreseen in some cases for permit holders:

- A. If the information and documents requested by the Ministry are not sent within 30 days, if they are sent incompletely, or if misleading information or documents are provided, an administrative fine of 50,000 TL will be imposed.
- B. If the lessor changes in a way other than inheritance and this change is not notified to the land registry within 30 days from the date of registration, an administrative fine of 50,000 TL will be imposed.
- C. Misleading promotion of the location, quality and physical characteristics of the house rented for tourism purposes to the user through articles, advertisements, posters, brochures, social media, web pages and similar tools, or failure to meet the promised conditions, or the allocation of the residence rented for tourism purposes to the user for a period shorter than the period specified in the contract. In case of violation, an administrative fine of 100,000 TL will be imposed.

- D. If the house is not delivered to the guest in accordance with the contract, an administrative fine of 100,000 TL + refund of the fee within 15 days is imposed. If the refund is not made within this period, an administrative fine of 200,000 TL will be imposed.
- E. If the plaque is not hung at the entrance of the residences, an administrative fine of 100,000 TL is imposed; if the deficiency is not corrected within 15 days period, an administrative fine of 500,000 TL will be imposed.
- F. If it is determined that the residence does not meet the qualifications required for the issuance of a permit, an administrative fine of 100,000 TL + a payment period of 15 days.

In a nutshell, with the new Law and Regulation, residential rentals of 100 days or less are accepted as rentals for tourism purposes, and a heavy inspection structure is envisaged to determine whether the regulations are complied with. Those who will carry out rental activities for tourism purposes are required to obtain a permit by obtaining the necessary approvals from other residence owners and then hang the plaque at the entrance of the residence. Serious sanctions will be imposed on those who do not comply with this and other obligations specified in the law.