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Airbnb has taken an aggressive approach to local policy disputes. | Getty

## Tech puts lobbying might behind Airbnb in local battles

By **TONY ROMM** | 09/16/16 05:06 AM EDT

NEW YORK — Tech giants and investors have rushed to Airbnb's defense as it tries to ward off new housing regulations across the country, fearing that a loss for the home-sharing website could create headaches for the rest of the internet economy.

In New York, legislators have proposed steep fines for people who post listings to rent out their entire house or apartment for less than 30 days and aren't present in the home. Such a practice is already against state law, but the bill would add stiff penalties for those who violate it — and Airbnb, fearing it might bear some of that legal burden, has threatened to sue if Gov. Andrew Cuomo signs the measure.

But Airbnb isn't alone in its fight. In New York, as with similar battles in places like Chicago and San Francisco, it's drawing major lobbying support from the broader tech industry. Many of Silicon Valley's leading players — including the trade groups that represent the likes of Facebook, Google and Twitter — share Airbnb's belief that the local rules violate the Communications Decency Act, a 1996 federal law that prohibits regulators from penalizing companies for the content and conduct of their users.

The critical portion of those rules, from the tech industry perspective, is section 230, which generally spares websites from liability if their users post illicit or illegal material. It was meant to shield the internet during the early days of its development. But the provision has become one of most cherished legal protections for Silicon Valley, and major internet companies and investors — anxious they could be forced to take on greater costs and responsibilities for policing their users — are determined to keep it intact.

“There are some really concrete concerns that are broader than just home sharing,” said Julie Samuels, head of the advocacy group Tech:NYC. She described the Communications Decency Act as the “core of how the internet as we know it works, which is to say that if a user posts something on any website that is illegal, in any way, it protects the website.”

Samuels helped to organize a letter signed by tech companies and investors in August that slammed the New York Legislature for its proposal. Another salvo came Friday, when roughly 80 companies — including tech firms like Foursquare, Betaworks and Codecademy — threw their support behind Airbnb.

A spokesman for Cuomo said in a statement Monday the matter “remains under review by Counsel's Office.”

Airbnb has taken an aggressive approach to local policy disputes, running ads that attack tax policies that it sees as hostile to home sharing and spending roughly \$8 million in San Francisco last year to defeat a referendum that would have significantly curtailed the company's ability to rent in the city. Chris Lehane, a former adviser to Democratic megadonor Tom Steyer who joined Airbnb in 2015, is helping to organize its political efforts.

In recent months, the company has increasingly turned to the Communications Decency Act in its tussles with regulators. The company's thinking is to “use the CDA to protect yourself everywhere you can, and you hope you have a lot of sloppily crafted legislation you can use the CDA to throw out,” said Bradley Tusk, the CEO of Tusk Ventures, which has worked with companies like Uber and FanDuel on political fights in New York.

That strategy has the added benefit of sparking interest from the wider tech community.

When Hawaiian lawmakers tried in June to require Airbnb to verify its hosts had registered their rentals with the state, they immediately encountered sharp resistance from the home-sharing company and its friends in the industry, including trade groups like the Internet Association. IA, which represents Airbnb and other tech giants like Facebook, Google and Twitter, stressed Hawaii's efforts violated the Communications Decency Act. The governor ultimately vetoed the measure.

The trade group made a similar argument in Chicago, spending more than \$1 million on radio and television ads defending the company against a proposal that would have required it to screen the posts on its website — and be responsible for guests' behavior after they rented. Mayor Rahm Emanuel and city leaders eventually opted for less onerous rules. And the group cited the CDA law to defend Airbnb in Los Angeles, where housing authorities wanted to fine the company for displaying rental listings that had not been registered with the city.

Airbnb tapped that playbook again last week in its hometown of San Francisco. Earlier this year, the city's board of supervisors approved a measure that would fine Airbnb and its competitors, like HomeAway, \$1,000 per day for each listing that isn't officially registered with the city. San Francisco described the requirement as essential to determine if hosts are valid and compared it what car rental services do, checking drivers' licenses before they turn over the keys.

Airbnb quickly sued the city, pointing to the Communications Decency Act in its filing. It argued San Francisco had crossed the line "around how platforms that facilitate speech and activity by users are protected and regulated under existing federal law," said David Owen, a senior policy adviser for the company. And Airbnb once more enlisted its tech allies, who wrote the court that the board had violated the CDA in trying to "treat technology companies as extensions of their own police forces." The case will be heard in October.

That fear — that websites would have to put greater resources into monitoring their users — is driving the tech industry to Airbnb's aid.

"I think that's why other tech companies, even if they're not in room sharing or the sharing economy in any sense ... are joining forces [with Airbnb] and expressing support, or filing amicus briefs, or signing letters in support" said Ted Ulyot, a partner at Andreessen Horowitz, a venture capital firm that's invested in Airbnb.