

By: Hancock, Buckingham  
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S.B. No. 451

A BILL TO BE ENTITLED

AN ACT

relating to regulation of short-term rentals and short-term rental marketplaces by municipalities and counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 250, Local Government Code, is amended by adding Section 250.008 to read as follows:

Sec. 250.008. REGULATION OF SHORT-TERM RENTALS AND SHORT-TERM RENTAL MARKETPLACES. (a) In this section:

(1) "Local law" means an ordinance, order, regulation, or similar measure.

(2) "Short-term rental" means a residential property, including a single-family dwelling or a unit in a condominium, cooperative, mixed-use development, or time-share, that is rented wholly or partly for a fee for a period not longer than 30 consecutive days. The term does not include:

(A) a unit that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space, or event center purpose or another similar use;

(B) a bed and breakfast; or

(C) a commercial lodging establishment, including a hotel or motel, that is not taxed as residential property under Title 1, Tax Code.

(3) "Short-term rental marketplace" means a platform

1 through which the owner of or authorized agent of the owner of a  
2 residential property, including a single-family dwelling or a  
3 residential dwelling unit, offers a short-term rental for rent.

4 (b) Subsection (a)(2) does not affect the definition of a  
5 short-term rental under:

6 (1) Section 156.001, Tax Code;

7 (2) an ordinance under Section 351.002, Tax Code; or

8 (3) an order or resolution under Section 352.002, Tax  
9 Code.

10 (c) Except as provided by this section, a municipality may  
11 not adopt or enforce a local law that restricts the use of or  
12 otherwise regulates a short-term rental based on the property's  
13 classification, use, or homestead status. If otherwise authorized  
14 by law, a municipality may adopt or enforce a local law applicable  
15 to short-term rentals:

16 (1) addressing:

17 (A) fire and building codes;

18 (B) health and sanitation;

19 (C) traffic control;

20 (D) solid or hazardous waste and pollution  
21 control;

22 (E) requirements under Subchapter B, Chapter  
23 232; and

24 (F) annual registration of short-term rentals,  
25 including the assessment of a reasonable and necessary  
26 administrative fee related to processing and administration of the  
27 registration, not to exceed \$100 annually;

1           (2) requiring the designation of an emergency contact  
2 for the property; and

3           (3) prohibiting the use of a rental for the purpose of:

4                   (A) housing sex offenders;

5                   (B) operating a structured sober living home or  
6 similar enterprise;

7                   (C) selling illegal drugs;

8                   (D) selling alcohol or another activity that  
9 requires a permit or license under the Alcoholic Beverage Code; or

10                   (E) operating as a sexually oriented business.

11           (d) Except as provided by this section, a municipality shall  
12 apply a local law regulating land use to a short-term rental in the  
13 same manner as another similar property. A local law described by  
14 this subsection includes regulations on:

15                   (1) zoning in accordance with the laws of this state;

16                   (2) residential use;

17                   (3) occupancy limitations;

18                   (4) noise;

19                   (5) property maintenance; and

20                   (6) nuisance.

21           (e) Except as provided by this section, a municipality may  
22 not adopt or enforce a local law that:

23                   (1) expressly or effectively prohibits the use of a  
24 private property as a short-term rental;

25                   (2) regulates the operation of a short-term rental  
26 marketplace;

27                   (3) imposes a tax or fee on a person operating a

1 short-term rental marketplace that is not otherwise authorized by  
2 the laws of this state;

3 (4) requires a person operating a short-term rental  
4 marketplace to apply, calculate, collect, or remit a tax imposed  
5 under Chapter 156, 351, or 352, Tax Code, except as otherwise  
6 required by the laws of this state, regardless of whether the person  
7 has previously provided those services; or

8 (5) imposes a tax on a person described by Subdivision  
9 (4) for the provision of services described by that subdivision.

10 (f) This section does not affect the authority of a  
11 municipality or county to adopt and enforce a local law that imposes  
12 a hotel occupancy tax on a person using a short-term rental in the  
13 same manner as the tax is imposed on a person using other property  
14 the use of which is subject to the tax.

15 (g) If a hotel occupancy tax is authorized by the  
16 municipality or county in which a short-term rental is located, a  
17 person operating a short-term rental marketplace may apply,  
18 calculate, collect, or remit a tax imposed by the state,  
19 municipality, or county under Chapter 156, 351, or 352, Tax Code, as  
20 applicable.

21 (h) This section may not be construed to:

22 (1) affect regulations of a private entity, including  
23 a property owners' association as defined by Section 202.001,  
24 Property Code;

25 (2) affect residential tenancies under Chapter 92,  
26 Property Code; or

27 (3) otherwise limit a property owner's rights under

1 the laws of this state.

2 (i) A short-term rental is subject to applicable federal,  
3 state, and local laws regarding rental discrimination. This  
4 subsection is not intended to:

5 (1) impose any additional obligation other than an  
6 obligation that exists under applicable federal, state, and local  
7 laws; or

8 (2) create an additional cause of action.

9 SECTION 2. This Act takes effect September 1, 2017.