By:  Button H.B. No. 3778

A BILL TO BE ENTITLED

AN ACT

relating to regulation of short-term rental units; authorizing a civil penalty; limiting the amount of a fee.

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

SECTION 1.  Subtitle A, Title 7, Local Government Code, is amended by adding Chapter 219 to read as follows:

CHAPTER 219. REGULATION OF SHORT-TERM RENTAL UNITS

Sec. 219.0001.  DEFINITIONS. In this chapter:

(1)  "Short-term rental unit" means a dwelling that is:

(A)  used or designed to be used as the home of a person, family, or household, including a single-family dwelling or a unit in a multi-unit building, including an apartment, condominium, cooperative, or timeshare; and

(B)  rented wholly or partly for a fee and for a period of less than 30 consecutive days.

(2)  "Short-term rental unit listing service" means a person who facilitates, including by listing short-term rental units on an Internet website, the rental of a short-term rental unit.

Sec. 219.0002.  AUTHORIZED MUNICIPAL LAWS. (a) A municipality may adopt an ordinance regulating short-term rental units in accordance with this chapter, including an ordinance that prohibits:

(1)  the use of the unit to promote activities that are illegal under municipal or other law;

(2)  the provision or management of the unit by a registered sex offender or any person having been convicted of a felony;

(3)  the serving of food to a tenant unless the serving of food at the unit is otherwise authorized by municipal law;

(4)  the rental of the unit to a person younger than 18 years of age; or

(5)  the rental of the unit for less than 24 hours.

(b)  In regard to a short-term rental unit, a municipality may require:

(1)  a unit provider to:

(A)  register and be issued a permit before renting the unit;

(B)  designate an emergency contact responsible for responding to complaints regarding the unit;

(C)  have the unit inspected on an annual basis by the local building code department or fire marshal, as applicable, to verify that the unit meets state and municipal requirements; and

(D)  post the number of a permit issued by the municipality for the unit on every listing advertising the unit on a short-term rental unit listing service; and

(2)  a unit provider or property manager on the provider's behalf to:

(A)  maintain property and liability insurance for the unit in an amount equal to or greater than the amount required by the municipality; or

(B)  provide proof that each short-term rental unit listing service that lists the unit is maintaining property and liability insurance for the unit in an amount equal to or greater than the amount required by the municipality.

Sec. 219.0003.  MAXIMUM OCCUPANCY LIMITS. (a) In this section, "bedroom" means an area of a residential dwelling intended and used as sleeping quarters. The term does not include a kitchen, dining room, bathroom, living room, utility room, closet, or storage area.

(b)  A municipality may limit the maximum occupancy of individuals 18 years of age or older in a unit to a number that is not less than two individuals multiplied by the number of bedrooms in the unit plus two additional individuals.

Sec. 219.0004.  PROHIBITED MUNICIPAL LAWS. Except as provided by this chapter, a municipality may not:

(1)  adopt or enforce an ordinance, rule, or other measure that:

(A)  prohibits or limits the use of property as a short-term rental unit; or

(B)  is applicable solely to short-term rental units, or short-term rental unit providers, short-term rental unit tenants, or other persons associated with short-term rental units; or

(2)  apply a municipal law, including a noise restriction, parking requirement, or building code requirement, or other law to short-term rental units or short-term rental unit providers, short-term rental unit tenants, or other persons associated with short-term rental units in a manner that is more restrictive or otherwise inconsistent with the application of the law to other similarly situated property or persons.

Sec. 219.0005.  LIMITATIONS ON REGISTRATION REQUIREMENTS. (a) A municipality that adopts a registration requirement under Section 219.0002(b)(1)(A):

(1)  shall approve or deny a registration application not later than the 45th calendar day after the date the municipality receives the application;

(2)  if the municipality approves a registration application, shall issue a permit valid for at least one year following the date of the issuance of the permit;

(3)  may suspend a permit issued under this section only in accordance with Section 219.0006;

(4)  may not charge a registration fee in an amount greater than the lesser of:

(A)  the amount to cover the administrative costs of enforcing the registration requirement; or

(B)  $450;

(5)  may require the short-term rental unit provider to affirm that the unit does not violate any rules or bylaws of any condominium, cooperative, property owners' association, or other similar entity that has jurisdiction over the property in which the unit is located;

(6)  may maintain an Internet website or telephone hotline that enables a member of the public to file a complaint regarding a short-term rental unit;

(7)  may deny renewal of a permit if the short-term rental unit provider did not provide the municipality with a renewal application before midnight on the date in which the permit expires;

(8)  may prohibit transfer of registration permits;

(9)  may not restrict the number of permits issued for short-term rental units, including units in multi-family dwellings, located in a commercial area or another area outside of a residential area of the municipality regardless of whether a unit is the primary residence of the unit owner;

(10)  may not restrict the number of permits issued for short-term rental units that are:

(A)  located within a residential area of the municipality; and

(B)  the primary residence of the unit owner; and

(11)  may place a reasonable density restriction or reasonable per capita percentage restriction on the number of permits issued for short-term rental units that are located in a residential area and not the primary residence of the owner if the municipality:

(A)  finds that active enforcement of the municipality's noise restrictions, parking requirements, building code requirements, or other laws is insufficient to protect the health and safety of municipal residents in the residential area;

(B)  does not prohibit more than 12.5 percent of the total number of residential properties in the municipality from being eligible for a permit; and

(C)  applies the restriction uniformly across the entire municipality.

(b)  If a municipality fails to approve or deny a registration application in accordance with Subsection (a)(1), the registration is considered approved.

(c)  A registration requirement adopted by a municipality that is more stringent than requirements in effect immediately before the new requirement takes effect applies only to a permit issued or renewed on or after the effective date of the new requirement.

Sec. 219.0006.  ENFORCEMENT OF REGISTRATION LAWS; CIVIL PENALTY. (a) A municipality may suspend the registration of a short-term rental unit for a period not to exceed one year if:

(1)  as a direct result of the operation of the unit, the unit has been in violation of a municipal law related to noise, parking, or habitability standards at least three times during one calendar year;

(2)  the unit provider is delinquent in the remittance of a local hotel occupancy tax by more than 90 days and the municipality has provided sufficient notice and opportunity for the provider to remit the tax; or

(3)  the unit provider is in violation of a municipal requirement enacted in accordance with this chapter.

(b)  A municipality may revoke a permit issued for a short-term rental unit that has been the subject of repeated violations of municipal requirements enacted in accordance with this chapter.

(c)  To suspend or revoke a permit under Subsection (a)(1) or (b), the municipality has the burden of proof of demonstrating that:

(1)  the violation was a direct result of the short-term rental unit's operation; and

(2)  the unit provider failed to make reasonable attempts to abate the violation or violations, as applicable.

(d)  Except as provided by Subsection (e), in addition to any penalty provided for an underlying offense or violation, a municipality may assess a civil penalty against a unit provider not to exceed $200 per day for a violation of this chapter.

(e)  If a short-term rental unit provider knowingly tolerates a violation of this chapter, fails to make reasonable attempts to abate a violation, and has violated a municipal law related to unsanitary conditions, noise, over-occupancy, parking, or solid waste five times or more in a calendar year, the municipality may assess a civil penalty against the unit provider in an amount not to exceed $2,000 per day for the violation.

Sec. 219.0007.  SHORT-TERM RENTAL UNIT LISTING SERVICE REQUIREMENTS. (a) A short-term rental unit listing service may not list a short-term rental unit that does not hold a permit in violation of a municipal ordinance.

(b)  A municipality that revokes a short-term rental unit permit may notify a short-term rental unit listing service of the revocation for the service to comply with Subsection (a).

Sec. 219.0008.  STATEWIDE DATABASE. (a) The comptroller shall establish and maintain a statewide database of all municipalities that have adopted short-term rental unit ordinances. The comptroller shall publish the database on the comptroller's Internet website.

(b)  A municipality that adopts a short-term rental unit ordinance shall notify the comptroller of the ordinance.

Sec. 219.0009.  CONSTRUCTION OF CHAPTER. (a) This chapter does not prohibit:

(1)  a condominium, cooperative, property owners' association, or other similar entity from prohibiting or otherwise restricting an owner of property within the entity's jurisdiction from using the property as a short-term rental unit;

(2)  a lessor, through the terms of a lease agreement, from restricting the use of the leased property as a short-term rental unit; or

(3)  a property owner from placing a restrictive covenant or easement on the property that restricts the future use of the property as a short-term rental unit.

(b)  This chapter does not require a municipality to regulate a short-term rental unit but does require a municipality that elects to regulate a unit to comply with this chapter.

(c)  This chapter does not prohibit a municipality from contracting with a third party to provide services that assist in ensuring compliance with municipal requirements imposed in accordance with this chapter. The third party may be a short-term rental unit listing service.

SECTION 2.  Section 156.151, Tax Code, is amended by adding Subsections (d) and (e) to read as follows:

(d)  A person who facilitates a short-term rental as defined by Section 156.001(b) but does not collect the tax imposed by this chapter on the short-term rental shall file with the comptroller a report stating:

(1)  the physical address of the property rented;

(2)  the name and address of the owner of the property rented;

(3)  the dates of the rental;

(4)  the amount paid for the rental if the person facilitated payment for the rental;

(5)  the listing price for the rental if the person listed a price for the rental; and

(6)  any other information required by the comptroller.

(e)  A report under Subsection (d) is due on or before the 20th day of the month following the month in which the last day of the short-term rental occurred. The comptroller may prescribe the form for a report under Subsection (d), including a method for making a combined report of all rentals facilitated by a person. The comptroller shall make information obtained from a report under Subsection (d) available to a municipality or county that imposes a hotel occupancy tax on the short-term rental described by the report.

SECTION 3.  This Act takes effect September 1, 2019.