

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

1 illegal under municipal or other law;

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

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

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

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

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

12 (1) a unit provider to:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) apply a municipal law, including a noise
25 restriction, parking requirement, or building code requirement, or
26 other law to short-term rental units or short-term rental unit
27 providers, short-term rental unit tenants, or other persons

1 associated with short-term rental units in a manner that is more
2 restrictive or otherwise inconsistent with the application of the
3 law to other similarly situated property or persons.

4 Sec. 219.0005. LIMITATIONS ON REGISTRATION REQUIREMENTS.

5 (a) A municipality that adopts a registration requirement under
6 Section 219.0002(b)(1)(A):

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

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

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

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

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

19 (B) \$450;

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

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

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

5 (8) may prohibit transfer of registration permits;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 219.0008. STATEWIDE DATABASE. (a) The comptroller
27 shall establish and maintain a statewide database of all

1 municipalities that have adopted short-term rental unit
2 ordinances. The comptroller shall publish the database on the
3 comptroller's Internet website.

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

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

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

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

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

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

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

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

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

5 (1) the physical address of the property rented;

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

8 (3) the dates of the rental;

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

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

13 (6) any other information required by the comptroller.

14 (e) A report under Subsection (d) is due on or before the
15 20th day of the month following the month in which the last day of
16 the short-term rental occurred. The comptroller may prescribe the
17 form for a report under Subsection (d), including a method for
18 making a combined report of all rentals facilitated by a person. The
19 comptroller shall make information obtained from a report under
20 Subsection (d) available to a municipality or county that imposes a
21 hotel occupancy tax on the short-term rental described by the
22 report.

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