

By: Fallon

S.B. No. 1888

A BILL TO BE ENTITLED

AN ACT

relating to regulation of short-term rental units by municipalities; authorizing a civil penalty.

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) In regard to a short-term rental unit, a municipality may prohibit:

(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

1 registered sex offender or any person having been convicted of a
2 felony;

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

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

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

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

10 (1) a unit provider to:

11 (A) register the unit;

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

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

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

20 (2) either:

21 (A) a unit provider or property manager on the
22 provider's behalf to maintain property and liability insurance for
23 the unit in an amount required by the municipality; or

24 (B) the unit provider to provide proof that the
25 short-term rental unit listing service that lists the unit is
26 maintaining property and liability insurance for the unit in an
27 amount required by the municipality.

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

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

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

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

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

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

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

27 Sec. 219.0005. LIMITATIONS ON REGISTRATION REQUIREMENTS.

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

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

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

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

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

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

15 (B) \$450;

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

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

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

1 (8) may prohibit transfer of registration permits;

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

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

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

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

12 (11) may restrict the number of permits issued for
13 short-term rental units that are located in a residential area and
14 not the primary residence of the owner if the municipality:

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

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

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

26 (c) A registration requirement adopted by a municipality
27 that is more stringent than requirements in effect immediately

1 before the new requirement takes effect applies only to a permit
2 issued or renewed on or after the effective date of the new
3 requirement.

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

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

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

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

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

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

21 (2) the unit provider failed to make reasonable
22 attempts to abate the violation.

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

27 (d) If a short-term rental unit provider knowingly

1 tolerates a violation of this chapter, fails to make reasonable
2 attempts to abate a violation, and has violated a municipal law
3 related to unsanitary conditions, noise, over-occupancy, parking,
4 or solid waste five times or more in a calendar year, the
5 municipality may assess a civil penalty against the unit provider
6 in an amount not to exceed \$2,000 per day for the violation.

7 Sec. 219.0007. CONSTRUCTION OF CHAPTER. (a) This chapter
8 does not prohibit:

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

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

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

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

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

27 SECTION 2. This Act takes effect September 1, 2019.