

1-1 By: Hancock, Buckingham S.B. No. 451
 1-2 (In the Senate - Filed January 10, 2017; February 6, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 3, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 1; April 3, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 451 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to regulation of short-term rentals and short-term rental
 1-22 marketplaces by municipalities and counties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 250, Local Government Code, is amended
 1-25 by adding Section 250.008 to read as follows:

1-26 Sec. 250.008. REGULATION OF SHORT-TERM RENTALS AND
 1-27 SHORT-TERM RENTAL MARKETPLACES. (a) In this section:

1-28 (1) "Local law" means an ordinance, order, regulation,
 1-29 or similar measure.

1-30 (2) "Short-term rental" means a residential property,
 1-31 including a single-family dwelling or a unit in a condominium,
 1-32 cooperative, mixed-use development, or time-share, that is rented
 1-33 wholly or partly for a fee for a period not longer than 30
 1-34 consecutive days. The term does not include:

1-35 (A) a unit that is used for a nonresidential
 1-36 purpose, including an educational, health care, retail,
 1-37 restaurant, banquet space, or event center purpose or another
 1-38 similar use;

1-39 (B) a bed and breakfast; or
 1-40 (C) a commercial lodging establishment,
 1-41 including a hotel or motel, that is not taxed as residential
 1-42 property under Title 1, Tax Code.

1-43 (3) "Short-term rental marketplace" means a platform
 1-44 through which the owner of or authorized agent of the owner of a
 1-45 residential property, including a single-family dwelling or a
 1-46 residential dwelling unit, offers a short-term rental for rent.

1-47 (b) Subsection (a)(2) does not affect the definition of a
 1-48 short-term rental under:

1-49 (1) Section 156.001, Tax Code;
 1-50 (2) an ordinance under Section 351.002, Tax Code; or
 1-51 (3) an order or resolution under Section 352.002, Tax
 1-52 Code.

1-53 (c) A municipality or county may adopt or enforce a local
 1-54 law that specifically regulates property used as a short-term
 1-55 rental only if the local law's primary purpose is to protect the
 1-56 public's health and safety. Local laws authorized by this
 1-57 subsection include regulations:

1-58 (1) addressing:
 1-59 (A) fire and building codes;
 1-60 (B) health and sanitation;

2-1 (C) traffic control;
2-2 (D) solid or hazardous waste and pollution
2-3 control;
2-4 (E) requirements under Subchapter B, Chapter
2-5 232; and
2-6 (F) permitting of short-term rentals, including
2-7 assessment of a reasonable fee for processing and administration;
2-8 (2) requiring the designation of an emergency contact
2-9 for the property; and
2-10 (3) prohibiting the use of a rental for the purpose of:
2-11 (A) housing sex offenders;
2-12 (B) operating a structured sober living home or
2-13 similar enterprise;
2-14 (C) selling illegal drugs;
2-15 (D) selling alcohol or another activity that
2-16 requires a permit or license under the Alcoholic Beverage Code; or
2-17 (E) operating as a sexually oriented business.
2-18 (d) Except as provided by this section, a municipality or
2-19 county shall apply a local law regulating land use to a short-term
2-20 rental in the same manner as another similar property. A local law
2-21 described by this subsection includes regulations on:
2-22 (1) zoning in accordance with the laws of this state;
2-23 (2) residential use;
2-24 (3) occupancy limitations;
2-25 (4) noise;
2-26 (5) property maintenance;
2-27 (6) nuisance; and
2-28 (7) reasonable limits on density if the limits do not
2-29 effectively prohibit short-term rentals.
2-30 (e) Except as provided by this section, a municipality or
2-31 county may not adopt or enforce a local law that:
2-32 (1) expressly or effectively prohibits the use of a
2-33 property as a short-term rental;
2-34 (2) regulates the operation of a short-term rental
2-35 marketplace;
2-36 (3) imposes a tax or fee on a person operating a
2-37 short-term rental marketplace that is not otherwise authorized by
2-38 the laws of this state;
2-39 (4) requires a person operating a short-term rental
2-40 marketplace to apply, calculate, collect, or remit a tax imposed
2-41 under Chapter 156, 351, or 352, Tax Code, except as otherwise
2-42 required by the laws of this state, regardless of whether the person
2-43 has previously provided those services; or
2-44 (5) imposes a tax on a person described by Subdivision
2-45 (4) for the provision of services described by that subdivision.
2-46 (f) This section does not affect the authority of a
2-47 municipality or county to adopt and enforce a local law that imposes
2-48 a hotel occupancy tax on a person using a short-term rental in the
2-49 same manner as the tax is imposed on a person using other property
2-50 the use of which is subject to the tax.
2-51 (g) If authorized by the municipality or county in which a
2-52 short-term rental is located, a person operating a short-term
2-53 rental marketplace may apply, calculate, collect, or remit a tax
2-54 imposed by the state, municipality, or county under Chapter 156,
2-55 351, or 352, Tax Code, as applicable.
2-56 (h) This section may not be construed to:
2-57 (1) affect regulations of a private entity, including
2-58 a property owners' association as defined by Section 202.001,
2-59 Property Code;
2-60 (2) affect residential tenancies under Chapter 92,
2-61 Property Code; or
2-62 (3) otherwise limit a property owner's rights under
2-63 the laws of this state.
2-64 (i) A short-term rental is subject to applicable federal,
2-65 state, and local laws regarding rental discrimination.
2-66 SECTION 2. This Act takes effect September 1, 2017.

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