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

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

1. Section 156.001, Tax Code;
2. an ordinance under Section 351.002, Tax Code; or
3. an order or resolution under Section 352.002, Tax Code.

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

1. addressing:
   1. fire and building codes;
   2. health and sanitation;
   3. traffic control;
   4. solid or hazardous waste and pollution control;
   5. requirements under Subchapter B, Chapter 232; and
   6. annual registration of short-term rentals, including the assessment of a reasonable and necessary administrative fee related to processing and administration of the registration, not to exceed $100 annually;
(2) requiring the designation of an emergency contact for the property; and

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

(A) housing sex offenders;

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

(C) selling illegal drugs;

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

(E) operating as a sexually oriented business.

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

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

(2) residential use;

(3) occupancy limitations;

(4) noise;

(5) property maintenance; and

(6) nuisance.

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

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

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

(3) imposes a tax or fee on a person operating a
short-term rental marketplace that is not otherwise authorized by the laws of this state;

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

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

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

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

(h) This section may not be construed to:

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

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

(3) otherwise limit a property owner's rights under
the laws of this state.

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

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

(2) create an additional cause of action.

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