

SENATE BILL 2281

By Briggs

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6; Title 7; Title 13; Title 62; Title 66; Title 67
and Title 68, relative to local government.

WHEREAS, thriving local communities rely on the fundamental availability of affordable housing, providing a stable foundation for families to flourish, raise children, and reach their fullest potential; and

WHEREAS, according to the United States Census Bureau, Tennessee's population has increased each of the twelve years between 2010 and 2022, thus increasing the demand for housing in this State; and

WHEREAS, the laws of supply and demand guide the dynamics of housing affordability, with increased demand and limited housing supply contributing to rising prices; and

WHEREAS, restrictions imposed by local governments on property use contribute to decreased affordability, limiting citizens' access to housing options and hindering their economic opportunities; and

WHEREAS, both renters and property owners stand to benefit from the opportunity to earn supplemental income by renting their primary residence, or another unit located on the property of their primary residence, on a short-term basis, providing a valuable means to alleviate the financial burden of rent or mortgage costs and enhancing the overall affordability for individuals and families; and

WHEREAS, local governments should endeavor to enable citizens to use their assets in ways that enhance affordability, particularly in the face of the escalating cost of living; and

WHEREAS, the 110th General Assembly recognized the importance of protecting individuals who generate additional income from their assets by renting short term when it

enacted the Short-Term Rental Unit Act, which made sure individuals who were already using their property as a short-term rental unit would be grandfathered and protected from new short-term rental bans by local governments; and

WHEREAS, in another attempt at increasing the supply of available affordable housing units, property developers should be incentivized to construct below-market-rate residential units by offering them a means of earning a greater return on their investment in their property, rather than by mandating financial burdens on property owners through measures like rent control or inclusionary zoning; and

WHEREAS, this General Assembly seeks to empower and encourage local governments to allow citizens to make their housing more affordable by renting their primary residence short term and to offer market-based incentives to property owners within the local governments' jurisdictions to offer housing at below-market rates without diminishing the value of the owner's property; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Housing Optimization and Market Empowerment Solutions (HOMES) Act of 2024."

SECTION 2. Tennessee Code Annotated, Section 66-35-102(b)(1), is amended by deleting the language "Notwithstanding any provision of law to the contrary" and substituting "Notwithstanding another law to the contrary, and except as otherwise provided in § 13-7-607".

SECTION 3. Tennessee Code Annotated, Title 13, Chapter 7, Part 6, is amended by adding the following as a new section:

13-7-607.

(a) This section only applies to a local governing body if, after the effective date of this act:

(1)

(A) The local governing body passes an ordinance, resolution, regulation, rule, or other requirement of any type that expressly provides that the local governing body elects to be governed by this section; and

(B) All ordinances, resolutions, regulations, rules, or other requirements of any type governing short-term rental units within the jurisdiction of the local governing body are entirely in compliance with this part; or

(2) A referendum to require that the local governing body be governed by this section is passed within the jurisdiction of the local governing body by a simple majority of the people voting in the election.

(b) Except as otherwise provided in § 13-7-604 and subsection (c), a local governing body that is subject to this section pursuant to subsection (a) shall not prohibit, effectively prohibit, or otherwise limit the ability of a person to use commercial property, owner-occupied property, or renter-occupied property as a short-term rental unit.

(c)

(1) Notwithstanding subsection (b), a local governing body that is subject to this section pursuant to subsection (a) may regulate, as long as the local governing body allows for reasonable compliance with the regulation, owner-occupied property or renter-occupied property by:

(A) Requiring the owner or renter of the property to provide proof annually that the property is the principal residence of the owner or renter;

(B) Comparing the local governing body's database of permits to the Automated Electoral System (AES) created pursuant to § 2-2-302, and immediately revoking the permit for an owner-occupied property or

renter-occupied property and preventing the continued use of the property as owner-occupied property or renter-occupied property if the AES indicates a change in an owner's or renter's primary residence; and

(C) If the short-term rental unit is also the principal residence of the owner or renter and the owner or renter is not residing in the principal residence for the duration of the rental:

(i) Limiting the total number of days the owner or renter of the property may use the owner's or renter's principal residence as a short-term rental unit; provided, that the minimum number of days permitted for rental is not less than ninety (90) total days per calendar year;

(ii) Requiring that the owner or renter contract with an emergency management contact person licensed pursuant to title 62, chapter 13, to provide twenty-four-hour-a-day support for the purposes of responding to and addressing any complaints about the property whenever the owner or renter is absent; and

(iii) Requiring a renter to provide proof that the renter's written lease agreement expressly allows the renter to use the property as a short-term rental unit.

(2) Subdivision (c)(1)(C) does not apply to:

(A) Other residential dwellings located on owner-occupied property or renter-occupied property that are not the principal residence of the owner or renter; or

(B) Property that is subject to the protections of § 13-7-603(a) and that was used as a short-term rental unit prior to the enactment of a regulation adopted pursuant to subdivision (c)(1).

(d) Notwithstanding § 66-35-102(b), for property that is located in a residential zone and whose continued use of property is not otherwise protected by § 13-7-603, a local governing body that is subject to this section pursuant to subsection (a) may require as a condition of using the property as a short-term rental unit that the owner of the property provide other residential dwellings located on the property to be sold or leased per year at a below-market rate, as long as such requirements comply with subsection (e).

(e) If an owner of a property described in subsection (d) elects to use the owner's property as a short-term rental unit, then pursuant to subsection (d) a local governing body:

(1) May require the owner to:

(A) For property being developed by the owner to be sold, require that the owner sell an equal number of residential dwellings located on the property at a below-market rate as may be sold for use as a short-term rental unit; or

(B) For property being leased by the owner of the property, require that the owner lease an equal number of residential dwellings located on the property at a below-market rate as may be used by the owner as a short-term rental unit; provided, that:

(i) The term of a below-market lease required by the local governing body is no greater than one (1) calendar year;

(ii) The property owner may recalculate the below-market rate upon the expiration of each lease; and

(iii) The property owner can choose not to renew a below-market lease upon the expiration of that lease and cease to lease the residential dwelling at a below-market rate, as long as the property owner also ceases to use an equal number of residential dwellings as a short-term rental unit; and

(2) Shall not:

(A) Set a below-market rate required pursuant to subdivision (e)(1) at less than sixty-six percent (66%) of fair market value; or

(B) Place any additional requirements on the residential dwellings that can be used on the property as short-term rental units pursuant to subdivision (e)(1) in any other way than the local governing body places on other short-term rental units located elsewhere within the jurisdiction of the local governing body.

SECTION 4. Tennessee Code Annotated, Section 13-7-602(10)(B)(ii), is amended by deleting the language "over the property" and substituting "over the property prohibiting or effectively prohibiting short-term rental units, or".

SECTION 5. Tennessee Code Annotated, Section 13-7-602, is amended by adding the following as new subdivisions:

() "Commercial property" means:

(A) Property classified as industrial or commercial property pursuant to the Constitution of Tennessee, Article II, § 28; or

(B) Property located within a specific geographic area designated by a generally applicable local law, including a zoning ordinance enacted pursuant to

this chapter, that permits any commercial or business use within the specific geographic area;

() "Fair market value" means the price at which a property would sell or be leased between a willing buyer or lessee and a willing seller or lessor, both having reasonable knowledge of the relevant facts, and neither being under any compulsion to buy or sell, as determined by a real estate appraiser licensed pursuant to title 62, chapter 39;

() "Owner-occupied property" means property that is:

(A) Owned by one (1) or more natural persons;

(B) Not owned or co-owned by a business entity; and

(C) Used as the principal residence by at least one (1) of the natural persons who own the property;

() "Principal residence" means the residential dwelling of a natural person in which the person's habitation is fixed to the exclusion of all others, and to which, whenever the person is absent, the person has a definite intention to return. A person may claim only one (1) residential dwelling located in this state as the natural person's principal residence. It is presumed that a residential dwelling is a natural person's principal residence if the address of the residential dwelling is the same as the address on the person's:

(A) Voter registration; and

(B) Two (2) or more of the following documents:

(i) Internal revenue service tax return from the prior year;

(ii) Internal revenue service W2 form;

(iii) Internal revenue service 1099 form;

(iv) Most recent pay stub;

- (v) Tennessee driver license;
- (vi) Tennessee identification card;
- (vii) Work identification card or badge; or
- (viii) Bank statement;

() "Renter-occupied property" means property that is:

(A) Leased by the owner of the property to one (1) or more natural persons pursuant to a written lease agreement that expressly allows the lessee to use the property as a short-term rental unit; and

(B) Used as the principal residence of the lessee of the property;

() "Residential zone" means any area designated by a generally applicable local law, including a zoning ordinance enacted pursuant to this chapter, for residential use only and excludes mixed-use, industrial, and commercial zones;

SECTION 6. Tennessee Code Annotated, Section 13-7-604(a), is amended by deleting the language "Section 13-7-603 does not" and substituting "Sections 13-7-603 and 13-7-607 do not".

SECTION 7. Tennessee Code Annotated, Section 13-7-604(b)(2), is amended by deleting the subdivision and substituting:

(2) Notwithstanding this part to the contrary, a local governing body that authorizes short-term rental units through a permitting or application process pursuant to subdivision (b)(1) may suspend the continued use of property as provided in § 13-7-603(a), the use of commercial property pursuant to § 13-7-607, the use of owner-occupied property pursuant to § 13-7-607, and the use of renter-occupied property pursuant to § 13-7-607, only during the time that the unit does not maintain a permit or approved application if the permitting or application requirements allow for reasonable compliance.

SECTION 8. Tennessee Code Annotated, Section 13-7-604(d), is amended by deleting the language "§ 13-7-603(a), the provider may challenge the prohibition, regulation" and substituting "§ 13-7-603(a) or § 13-7-607, then the provider may challenge the prohibition, effective prohibition".

SECTION 9. Tennessee Code Annotated, Section 13-7-604, is amended by adding the following as a new subsection:

(e) A court shall award litigation costs and fees, including reasonable attorney fees, and may award punitive and compensatory damages, including lost rent, to a plaintiff who prevails in a civil action brought pursuant to subsection (d).

SECTION 10. This act takes effect upon becoming a law, the public welfare requiring it.