

House Bill 579

By: Representatives Dollar of the 45<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, Pezold of the 133<sup>rd</sup>, Kelley of the 16<sup>th</sup>, Beverly of the 143<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to provide that local governments cannot ban or regulate short-term and vacation  
3 rentals; to provide for definitions; to provide for exceptions; to provide for the imposition and  
4 collection of certain taxes; to provide for the confidentiality of certain records; to provide for  
5 certain reports; to provide for related matters; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
10 by adding a new chapter to read as follows:

11 "CHAPTER 77

12 36-77-1.

13 As used in this chapter, the term:

14 (1) 'Lodging accommodations' means any space offered to the public for lodging,  
15 including any hotel, motel, inn, tourist home or house, dude ranch, resort, campground,  
16 studio or bachelor hotel, lodging house, rooming house, residential home, apartment  
17 house, dormitory, public or private club, mobile home or house trailer at a fixed location,  
18 or other similar structure or space.

19 (2) 'Lodging marketplace' means a person that provides a platform through which an  
20 unaffiliated third party offers to rent a vacation rental or short-term rental to an occupant  
21 and collects the consideration for the rental from the occupant.

22 (3) 'Lodging operator' means a person that rents to an occupant any lodging  
23 accommodation offered through a lodging marketplace.

24 (4) 'Lodging transaction' means a charge to an occupant by a lodging operator for the  
 25 occupancy of any lodging accommodation.

26 (5) 'Unaffiliated third party' means a person that is not owned or controlled, directly or  
 27 indirectly, by the same interests.

28 (6) 'Vacation rental' or 'short-term rental' means any individually or collectively owned  
 29 single-family house or dwelling unit or any unit or group of units in a condominium,  
 30 cooperative, or timeshare, or owner occupied residential home, that is offered for a fee  
 31 and for less than 30 consecutive days. Vacation rental or short-term rental shall not  
 32 include a unit that is used for any nonresidential use, including retail, restaurant, banquet  
 33 space, event center, or another similar use.

34 36-77-2.

35 (a) No county, municipality, or consolidated government shall prohibit vacation rentals or  
 36 short-term rentals.

37 (b) No county, municipality, or consolidated government shall enact or enforce any law,  
 38 ordinance, regulation, or plan that prohibits or regulates short-term rentals except as  
 39 provided in this Code section. No county, municipality, or consolidated government shall  
 40 restrict the use of or regulate vacation rentals or short-term rentals based on their  
 41 classification, use, or occupancy. A county, municipality, or consolidated government may  
 42 enact or enforce a law, ordinance, regulation, or plan that regulates short-term rentals for  
 43 the following purposes:

44 (1) Protection of public health and safety, including rules and regulations related to fire  
 45 and building codes, health and sanitation, transportation or traffic control, solid or  
 46 hazardous waste, and pollution control, provided that enforcement would not expressly  
 47 or in practical effect prohibit the use of a property as a short-term rental, and designation  
 48 of an emergency point of contact, if the county, municipality, or consolidated government  
 49 demonstrates that such rule or regulation is for the primary purpose of protecting public  
 50 health and safety;

51 (2) Adopting and enforcing residential use and zoning ordinances, including ordinances  
 52 related to noise, protection of welfare, property maintenance, and other nuisance issues,  
 53 if the ordinance is applied in the same manner as other similar properties; and

54 (3) Limiting or prohibiting the use of vacation rentals or short-term rentals for the  
 55 purposes of housing sex offenders, operating or maintaining a structured sober living  
 56 home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless  
 57 dancing, and other adult oriented businesses.

58 This subsection shall not apply to private entities or homeowners' associations.

59 36-77-3.

60 (a) A lodging marketplace may elect to register with Department of Revenue for a license  
61 for the payment of taxes levied by this state and any counties, municipalities, or  
62 consolidated governments for taxes due from a lodging operator on any lodging transaction  
63 facilitated by the lodging marketplace.

64 (b) Notwithstanding any other law to the contrary, a lodging operator shall be entitled to  
65 an exclusion from any applicable taxes for any lodging transaction facilitated by a lodging  
66 marketplace for which the lodging operator has obtained from the lodging marketplace  
67 written notice that the lodging marketplace is registered with Department of Revenue to  
68 collect applicable taxes for all lodging transactions facilitated by the lodging marketplace  
69 and the transaction history documenting taxes collected by the lodging marketplace.

70 (c) A lodging marketplace that is registered with Department of Revenue shall not be  
71 required to list or otherwise identify any individual lodging operator.

72 36-77-4.

73 (a) Except as provided by this Code section, a county, municipality, or consolidated  
74 government shall not levy a transaction sales, use, franchise, or other similar tax or fee,  
75 however denominated, on the business of operating a lodging marketplace or, in the case  
76 of a lodging marketplace that is registered pursuant to Code Section 36-77-3, on any  
77 lodging transaction facilitated by the lodging marketplace or on any lodging operator with  
78 respect to any lodging transaction for which it has received documentation that the lodging  
79 marketplace has remitted or will remit the applicable tax to the Department of Revenue  
80 pursuant to this chapter.

81 (b) The tax base for a vacation rental or short-term rental shall be the gross proceeds of  
82 sales or gross income received by a lodging operator, except that the tax base shall not  
83 include the gross proceeds or gross income received by a lodging operator from any  
84 lodging transactions for which the lodging operator has received documentation from a  
85 registered lodging marketplace showing that the lodging marketplace has remitted or will  
86 remit the applicable tax to the Department of Revenue.

87 (c) In the case of a lodging marketplace that is registered pursuant to Code  
88 Section 36-77-3, a county, municipality, or consolidated government may levy a  
89 transaction sales, use, franchise, or other similar tax or fee on the lodging marketplace,  
90 subject to the definition of tax base in subsection (b) of this Code section and subject to the  
91 following conditions:

92 (1) Such tax shall be uniform on lodging marketplaces, lodging operators, and other  
93 taxpayers of the same class within the jurisdictional boundaries of the county,  
94 municipality, or consolidated government; and

95 (2) Such tax shall be administered, collected, and enforced by the Department of  
 96 Revenue and remitted to the county, municipality, or consolidated government in a  
 97 uniform manner.

98 (d) Taxes shall not be collected from a lodging operator with respect to any lodging  
 99 transaction or transactions for which the lodging operator has received written notice or  
 100 documentation from a registered lodging marketplace that it has remitted or will remit the  
 101 applicable tax with respect to those transactions to the Department of Revenue pursuant to  
 102 this chapter.

103 (e) A lodging operator:

104 (1) Remains ultimately responsible, accountable, and liable for both:

105 (A) The accuracy of information the lodging operator furnishes to the lodging  
 106 marketplace; and

107 (B) The return and payment of the full tax liability;

108 (2) Is subject to audit, as provided by law, of the records in the lodging operator's  
 109 possession that are submitted to the lodging marketplace for the purposes of the  
 110 consolidated return; and

111 (3) May withdraw any of the lodging operator's properties from the consolidated return  
 112 on 30 days' written notice to the lodging marketplace, the Department of Revenue, and  
 113 the tax collector of the county, municipality, or consolidated government, as applicable.

114 (f) The Department of Revenue shall annually report to the public the revenues collected  
 115 and distributed to each county, municipality, and consolidated government from lodging  
 116 marketplaces pursuant to this chapter. Such a report shall be anonymized and otherwise  
 117 comply with the privacy requirements set forth in Code Section 36-77-5.

118 36-77-5.

119 (a) Except as permitted in subsection (b) of this Code section, the Department of Revenue  
 120 shall not disclose information provided by a lodging marketplace without the written  
 121 consent of the lodging marketplace. Such information shall not be:

122 (1) Subject to disclosure pursuant to Article 4 of Chapter 18 of Title 50; and

123 (2) Disclosed to any agency of this state or of any county, municipality, consolidated  
 124 government, or other political subdivision of this state.

125 (b) The Department of Revenue may only disclose confidential information provided by  
 126 a lodging marketplace to:

127 (1) The taxpayer whom the information concerns;

128 (2) The office of the Attorney General solely for its use in an investigation or proceeding  
 129 involving tax administration;

- 130 (3) Any person only to the extent necessary for effective tax administration in connection  
131 with:
- 132 (A) The processing, storage, transmission, destruction, and reproduction of the  
133 information;
- 134 (B) The programming, maintenance, repair, testing, and procurement of equipment for  
135 purposes of tax administration; or
- 136 (C) The collection of the taxpayer's civil liability; or
- 137 (4) Any state or federal judicial or administrative proceeding pertaining to tax  
138 administration if:
- 139 (A) The taxpayer is a party to the proceeding; and
- 140 (B) The proceeding arose out of, or in connection with, determining the taxpayer's civil  
141 or criminal liability, or the collection of the taxpayer's civil liability, with respect to any  
142 tax imposed under this chapter. However, nothing in this Code section shall be  
143 interpreted to limit the right to protect confidential information."

144 **SECTION 2.**

145 All laws and parts of laws in conflict with this Act are repealed.