

\_\_\_\_\_ offers the following  
substitute to HB 523:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to allow local governments to regulate the use of properties as short-term rental properties under certain circumstances; to provide for definitions; to provide for certain judicial determinations; to provide for statutory construction and applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

"CHAPTER 77

36-77-1.

As used in this chapter, the term:

(1) 'Children' means persons who are 12 years of age or younger.

(2) 'Local government' means any county, municipality, or consolidated government of this state.

(3) 'Operator' means any individual or entity that owns or has an ownership interest in any short-term rental property.

(4) 'Owner-occupied property' means any real property which contains one or more single-family houses or dwelling units where the principal single-family house or dwelling unit must be occupied by the property owner and constitutes such property owner's primary and usual place where he or she resides.

(5) 'Residence' means a:

(A) Single-family house or dwelling unit;

(B) Townhouse; or

(C) Unit in a condominium, cooperative, or timeshare.

(6) 'Short-term rental property' means any individually or collectively owned residence that is offered for a fee and for less than 30 consecutive days. The term does not include a residence that is used for any nonresidential use, including retail space, restaurant, banquet space, event center, or another similar use.

(7) 'Transaction' means a charge by an operator for the occupancy of any short-term rental.

36-77-2.

A local law, ordinance, resolution, or regulation may regulate activities that arise when a residence is used as a short-term rental property if such law, ordinance, resolution, or regulation is narrowly tailored; provided, however, that such local law, ordinance, resolution, or regulation may only:

(1) Require a certification of short-term rental property so long as any licensing or registration fee does not exceed \$200.00;

(2) Require smoke alarms in all rooms of the short-term rental property;

(3) Restrict occupancy to two persons per bedroom plus two additional children; provided, however, that such occupancy requirement may be more restrictive if provided otherwise by the applicable state and local rules, regulations, codes, or standards for occupancy of such residence;

(4) Require transactions to be between individuals who are at least 21 years of age;

(5) Require transactions to be 24 hours or longer in duration;

(6) Require the payment of all applicable state and local taxes;

(7) Prohibit the use of a short-term rental property upon a finding of three or more local nuisance ordinance violations in a 12 month period;

(8) Require occupants of short-term rental property to confirm whether occupying such property would be in violation of any court order; and

(9) Require the operator to certify that the short-term rental property complies with all applicable zoning, building, health, and life safety code provisions and to agree that no transactions involving such short-term rental property or occupancy of any short-term vacation rental property shall take place if such short-term rental property is in violation of any such applicable zoning, building, health, or life safety code provisions.

36-77-3.

A court of law shall determine if a local law, ordinance, resolution, or regulation complies with this Code section without regard to any assertion in the local law, ordinance, resolution, or regulation that it complies. In all actions brought pursuant to this Code

60 section, the political subdivision that enacted the local law, ordinance, resolution, or  
61 regulation shall establish by clear and convincing evidence that the local law, ordinance,  
62 resolution, or regulation complies with this chapter and that its primary purpose is the least  
63 restrictive means to protect the public health and safety.

64 36-77-4.

65 (a) Nothing in this chapter shall:

66 (1) Affect the validity or enforceability of private covenants restricting short-term rental  
67 of a residence or of other contractual agreements among property owners that relate to  
68 the rental of a single-family dwelling, townhouse, or unit;

69 (2) Be construed to prohibit the lease of any residence as part of a purchase or sale of  
70 real property;

71 (3) Authorize a local government to prohibit owner-occupied properties in residential  
72 areas from being used as short-term rental property;

73 (4) Authorize a local government to require a residential property to comply with  
74 commercial building code standards solely because of its use as short-term rental  
75 property; or

76 (5) Authorize a local government to consider a short-term rental property as a  
77 commercial business or commercial property unless:

78 (A) The operator of such short-term rental property is the operator of four or more  
79 short-term rental properties; or

80 (B) The total transactions for such short-term rental property exceed \$5,000.00 per  
81 calendar year.

82 (b) The provisions of this chapter shall not apply to any local government that had in effect  
83 as of September 30, 2017, a local law, ordinance, resolution, or regulation regulating  
84 short-term rental property and such local government shall not be prohibited from changing  
85 any such local law, ordinance, resolution, or regulation or adopting new ones, including but  
86 not limited to any zoning code provisions, to which the provisions of this chapter shall not  
87 apply."

## 88 **SECTION 2.**

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