

House Bill 1121

By: Representatives Ballard of the 147th, Washburn of the 144th, Powell of the 33rd, New of the 64th, and Sainz of the 180th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to
2 general provisions applicable to counties and municipal corporations, so as to prohibit local
3 governments from suspending or prohibiting the continued use of property as a short-term
4 rental unit by a property owner under certain circumstances; to provide definitions; to
5 provide for suspension or prohibition of short-term rentals by a particular property owner for
6 certain violations; to provide for a waiver of sovereign immunity for a cause of action against
7 local governments that seeks declaratory and injunctive relief; to provide for attorney's fees
8 and costs of litigation; to provide for legislative construction; to provide for related matters;
9 to provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
13 provisions applicable to counties and municipal corporations, is amended by adding a new
14 Code section to read as follows:

15 "36-60-32.

16 (a) As used in this Code section, the term:

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- 17 (1) 'Effective date of enactment' means the day on which such local regulation became
18 effective through the requisite approval process required by law of the local governing
19 body. Such term shall not mean the date on which such local regulation was introduced
20 for consideration by the local governing body.
- 21 (2) 'Effectively prohibit' means acting or failing to act in a manner that prevents a
22 property owner or tenant from using the owner's property as a short-term rental unit after
23 reasonable compliance with generally applicable local laws.
- 24 (3) 'Generally applicable local law' means an ordinance, resolution, regulation, rule, or
25 other requirement of any type other than zoning adopted, enacted, maintained, or
26 enforced by a local governing body that applies to all property or the use of all property
27 and does not apply only to property used as a short-term rental unit.
- 28 (4) 'Local governing body' means any county, municipal corporation, or consolidated
29 government.
- 30 (5) 'Local regulation' means any ordinance, resolution, regulation, rule, or other
31 requirement adopted, enacted, maintained, or enforced by a local governing body.
- 32 (6) 'Prohibit' means forbidding or banning the operation of short-term rental units, either
33 permanently or temporarily, within a local governing body's jurisdiction, a portion of a
34 local governing body's jurisdiction, or a portion of an owner's property.
- 35 (7) 'Property' means a tract of land and any improvements thereon that is recorded in the
36 office of the clerk of the superior court in the county in which it is located.
- 37 (8) 'Residential dwelling' means a cabin, house, bungalow, or other structure used or
38 designed to be used as an abode or home of a person, family, or household, and includes
39 a single-family dwelling, a portion of a single-family dwelling, or an individual
40 residential dwelling in a multiunit residential building, such as an apartment building,
41 condominium, cooperative, or timeshare.
- 42 (9) 'Short-term rental unit' or 'unit' means a residential dwelling that is rented wholly or
43 partially for a fee for periods of 30 days or less. Such term shall not include an inn as

44 such term is defined in Code Section 43-21-1 or a tourist court as such term is defined in
45 Code Section 31-28-1.

46 (10) 'Transferred' means the conveyance of an interest that is exempt from the tax
47 imposed by Code Section 48-6-1.

48 (b) No local regulation that prohibits or effectively prohibits the use of property as a
49 short-term rental unit shall apply to a property if the property owner, prior to the date of
50 enactment of the local regulation by the local governing body, held out the property to the
51 public for use as a short-term rental unit and prior to the first date of use of the property by
52 the property owner as a short-term rental unit:

53 (1) Such use by the property owner was approved by the local governing body pursuant
54 to a local regulation specifically governing short-term rental units; or

55 (2) The local governing body did not have in effect a local regulation specifically
56 governing short-term rental units, but all applicable taxes due on the unit were remitted
57 for the filing periods that cover at least six months within the twelve-month period
58 immediately preceding the later of:

59 (A) July 1, 2024; or

60 (B) The effective date of enactment of the local regulation specifically governing
61 short-term rental units by such property owner.

62 (c) The local regulation in effect on the date a property was first used as a short-term rental
63 unit by a property owner shall be the applicable local regulation governing the use of such
64 property as a short-term rental unit by such property owner, unless such property is later
65 sold, leased, or transferred such that such property owner no longer has an ownership
66 interest in the property.

67 (d) If a local governing body that prohibits or effectively prohibits the use of property by
68 a property owner as a short-term rental unit later amends such local regulations to allow
69 for the use of property by such property owner as a short-term rental unit, nothing in this
70 Code section shall prohibit the property owner from voluntarily subjecting such property

71 to such local regulations and using the property as a short-term rental unit in compliance
72 with such local regulations.

73 (e) Once a property is used as a short-term rental unit, no local governing body may
74 suspend or prohibit the continued use of such property as a short-term rental unit except
75 when:

76 (1) As a direct result of the operation of a property as a short-term rental unit, the unit
77 has been in violation of generally applicable local laws three or more separate times and
78 the property owner has no appeal rights remaining for any of such violations, then the
79 local governing body may suspend temporarily the use of the property by such property
80 owner as a short-term rental unit or extinguish the ability of the property to be used by
81 such property owner as a short-term rental unit unless and until the short-term rental unit
82 complies with the local regulation currently in effect for short-term rental units and the
83 local governing body approves such use. The burden of proof that a violation of a
84 generally applicable local law was a direct result of the operation of the short-term rental
85 unit shall be upon the local governing body; or

86 (2) The local regulation in effect on the date property was first used by the property
87 owner as a short-term rental unit requires a permit or payment of fees and the required
88 permit is not maintained or the required fees are not paid, then the local governing body
89 may suspend temporarily the use of the property as a short-term rental unit by such
90 property owner until such permit is obtained or such fees are paid; provided, however,
91 that the local governing body shall have provided the property owner with a written
92 notice as to such unit providing 30 days from the receipt of such notice to obtain the
93 required permit and pay any outstanding fees prior to suspending the use of the property
94 as a short-term rental unit.

95 (f) All complaints made to a local governing body that accepts public complaints regarding
96 the operation of short-term rental units in its jurisdiction shall be in writing and made under

97 oath or affirmation. Such local governing body shall provide clear notification to the
98 public that false swearing shall be punishable under Code Section 16-10-71.

99 (g)(1) Any person adversely affected by any local regulation in violation of this Code
100 section may bring an action against such local governing body in the superior court of the
101 county or, if against a municipal corporation, in the county in which the city hall of such
102 municipal corporation is located to:

103 (A) Declare such local regulation as void; and

104 (B) Enjoin the enforcement of such local regulation.

105 (2) No damages shall be awarded in any action brought pursuant to this subsection;
106 provided, however, that the court may award attorney's fees and costs of litigation.

107 (3) The sovereign immunity of local governing bodies of this state is waived for an
108 action brought pursuant to paragraph (1) of this subsection. Such waiver of sovereign
109 immunity shall, upon proper showing, include and authorize the granting of a temporary
110 restraining order and a preliminary injunction against the enforcement of any local
111 regulation that is the subject of such action.

112 (4)(A) No person having a claim against a local governing body pursuant to this
113 subsection shall bring an action asserting such claim without first giving the local
114 governing body notice at least 60 days before such action is filed.

115 (B) Notice of a claim given pursuant to subparagraph (A) of this paragraph shall:

116 (i) Be given in writing and shall be mailed by certified mail or statutory overnight
117 delivery, return receipt requested, or delivered personally to the local governing body,
118 and each local governing body may designate an office or officer to whom such notice
119 is to be delivered or mailed; and

120 (ii) Reasonably describe the basis of the claim, including identification of local
121 regulation alleged to have been adopted or enforced in violation of this Code section.

122 (C) No action against a local governing body under this subsection shall be
123 commenced and the courts shall have no jurisdiction thereof unless and until a written

124 notice of a claim has been given as provided in this subsection. Any such action shall
125 include an affirmative pleading by the plaintiff that such notice of claim has been given.
126 (D) A person who brings an action against a local governing body under this
127 subsection shall, if the court determines that such action is frivolous, be liable to the
128 county, municipal corporation, or consolidated government for its costs and reasonable
129 attorney's fees incurred in defending against such action.
130 (E) Nothing in this subsection shall be construed to prohibit a person from bringing an
131 action pursuant to Article I, Section II, Paragraph V of the Georgia Constitution."

132 **SECTION 2.**

133 This Act shall become effective upon its approval by the Governor or upon its becoming law
134 without such approval.

135 **SECTION 3.**

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