

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: S2/20/23 H3/6/23 H3/16/23*
94th General Assembly **A Bill**
Regular Session, 2023

SENATE BILL 197

By: Senator J. Bryant
By: Representative B. McKenzie

For An Act To Be Entitled

*REGULATION OF SHORT-TERM RENTALS; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.*

Subtitle

TO PROHIBIT CERTAIN RESTRICTIONS ON THE
REGULATION OF SHORT-TERM RENTALS; AND TO
DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Arkansas Constitution, Article 2, § 2, establishes that "All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property, and reputation; and of pursuing their own happiness";

(2) Furthermore, Arkansas Constitution, Article 2, § 21, establishes that "No person shall be taken, or imprisoned, or disseized of his estate, freehold, liberties or privileges; or outlawed, or in any manner destroyed, or deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land; nor shall any person, under any circumstances, be exiled from the State";

(3) Arkansans have a constitutional right to use their property without intrusion by the government;

(4) Short-term rentals are vital to the tourism and



marketability of the State; and

(5) Local governments often hold back tourism and infringe on property owners' private property rights in this state by passing ordinances that inhibit property owners' right to use their property as they see fit.

SECTION 2. Arkansas Code Title 18, Chapter 11, Subchapter 1, is amended to add an additional section to read as follows:

18-11-110. Restrictions on regulation of short-term rentals and vacation rentals – Definitions.

(a) As used in this section:

(1) "Applicant" means:

(A) A short-term rental owner; or

(B) An assigned agent who plans to manage a short-term rental;

(2) "Local government" means a city or county;

(3) "Effectively prohibits" means an act or failure to act by a governing body of a local government that prevents a property owner, lodging operator, or tenant from using the owner's property as a short-term rental after reasonable compliance with generally applicable local laws;

(4)(A) "Short-term rental" means an individually or collectively owned single-family house or dwelling unit or a unit or group of units in a condominium, cooperative or timeshare, or owner-occupied residential home that is offered for a fee and for thirty (30) days or less.

(B) "Short-term rental" does not include a unit that is used:

(i) For retail;

(ii) As a restaurant;

(iii) As banquet space;

(iv) As an event center; or

(v) For any other similar use; and

(4) "Short-term rental marketplace" means a person who provides a platform through which a lodging operator, or the authorized agent of the lodging operator, offers a short-term rental to an occupant.

(b) A local government shall not enact or enforce an ordinance, resolution, rule, or other requirement of any type that prohibits or limits the use of a property as a short-term rental unit.

(c) A local government may enact or enforce an ordinance, resolution, rule, or other requirement that:

(1) Requires an applicant to obtain a permit from the local government, at a cost not to exceed fifty dollars (\$50.00) per short-term rental, prior to the applicant's operation of a short-term rental provided that the ordinance, resolution, rule, or other requirement does not expressly or effectively prohibit or limit the use of a property as a short-term rental;

(2) Is not more burdensome than an ordinance, resolution, rule, or other requirement that currently applies to all residential properties found within the jurisdiction of the local government;

(3) Suspends an applicant's ability to operate a short-term rental for a period of time that does not exceed thirty (30) days if the applicant has been adjudicated of violating the same local ordinance three (3) or more times within a one hundred eighty (180) day period of time;

(4) Suspends an applicant's ability to operate a short-term rental for a period of time that does not exceed twelve (12) months if the applicant has been found guilty of violating one (1) local ordinance and the violation of the local ordinance:

(A) Occurred at or in relation to the short-term rental;
and

(B) Resulted in the serious physical injury or wrongful death of a person from the purposely reckless conduct of the short-term rental owner or the short-term rental owner's assigned agent; or

(5) Limits or prohibits the use of a short-term rental to:

(A) House sex offenders;

(B) Sell illegal drugs or alcohol; or

(C) House an adult-oriented business, including without limitation a business involving;

(i) Pornography or other obscene material; or

(ii) Nude or topless dancing.

(d) A short-term rental:

(1) Shall be classified as residential land use for zoning purposes; and

(2) Is subject to all zoning requirements applicable to property classified as residential land use for zoning purposes.

(e) A local government shall not regulate the operation of a short-term rental marketplace.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the regulatory framework for the operation of short-term rentals by local government unfairly discriminates against owners of short-term rentals; that local restrictions on short-term rental properties have negative effects including suppressing home values and discouraging tourism owners; and that local regulations on short-term rentals deny property owners their right to dominion over his or her property under Article 2 § 21 of the Arkansas Constitution. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Bryant