

House Bill 448

By: Representatives Dollar of the 45<sup>th</sup>, Stephens of the 164<sup>th</sup>, Frye of the 118<sup>th</sup>, Newton of the 123<sup>rd</sup>, and Drenner of the 85<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to excise tax on rooms, lodgings, and accommodations, so as to revise the definition  
3 of "innkeeper" to include lodging facilitators; to expand the levy of a nightly excise tax to  
4 include all rooms, lodgings, and accommodations furnished for value to the public by  
5 innkeepers; to define the term "lodging facilitator"; to provide for related matters; to provide  
6 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to  
10 excise tax on rooms, lodgings, and accommodations, is amended in Code Section 48-13-50.2,  
11 relating to definitions, by revising paragraph (2) and by inserting a new paragraph to read as  
12 follows:

13 ~~"(2) 'Innkeeper' means any person who is subject to taxation under this article for the~~  
14 ~~furnishing for value to the public any rooms, lodgings, or accommodations;~~

15 (A) Any person that furnishes for value to the public any room or rooms, lodgings, or  
16 accommodations in a county or municipality and that is licensed by, or required to pay  
17 business or occupation taxes to, such municipality or county for operating a hotel,  
18 motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which  
19 rooms, lodgings, or accommodations are regularly furnished for value; or

20 (B) A lodging facilitator that facilitates the furnishing for value to the public any room  
21 or rooms, lodgings, or accommodations on behalf of any person that is not an innkeeper  
22 described in subparagraph (A) of this paragraph.

23 (2.1) 'Lodging facilitator' means a person within or outside this state that contracts with  
24 one or more persons to make available or facilitate the furnishing for value to the public  
25 any room or rooms, lodgings, or accommodations in this state on behalf of another person  
26 in exchange for any form of consideration, by directly, or indirectly through a related

27 member as defined in Code Section 48-7-28.3 or through any agreement or arrangement  
 28 with another person:

29 (A) Providing a service for such person that makes available or facilitates the  
 30 furnishing for value to the public any room or rooms, lodgings, or accommodations in  
 31 any manner, including, but not limited to, promoting, marketing, advertising, taking  
 32 orders or reservations for, providing the physical or electronic infrastructure that brings  
 33 purchasers and marketplace sellers together, or otherwise similarly assisting the seller  
 34 in making such retail sales, but excluding merely processing the payments for such  
 35 retail sales; and

36 (B) Collecting, charging, processing, or otherwise facilitating payment for the  
 37 furnishing for value to the public any rooms, lodgings, or accommodations on behalf  
 38 of such person;

39 provided that the total value of all charges on such furnishing for value in this state,  
 40 combined across all persons for which it acts as a lodging facilitator, equals or exceeds  
 41 \$100,000.00 in aggregate in the previous or current calendar year."

42 **SECTION 2.**

43 Said article is further amended by revising Code Section 48-13-50.3, relating to additional  
 44 tax imposed by innkeepers, forms for reporting, use of funds from additional taxes, and  
 45 provisions for termination, as follows:

46 "48-13-50.3.

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

48 (1) 'Extended stay rental' means providing for value to the public a hotel or motel room  
 49 for longer than 30 consecutive days to the same customer.

50 (2) ~~'Innkeeper' means any person who is subject to taxation under this article for the~~  
 51 ~~furnishing for value to the public a hotel or motel room.~~

52 (3) 'Transportation purposes' means and includes roads, bridges, public transit, rails,  
 53 airports, buses, seaports, including without limitation road, street, and bridge purposes  
 54 pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all  
 55 accompanying infrastructure and services necessary to provide access to these  
 56 transportation facilities, including general obligation debt and other multiyear obligations  
 57 issued to finance such purposes.

58 (b) ~~On or after July 1, 2015, each innkeeper in this state shall charge a \$5.00 per night fee~~  
 59 ~~to the customer, unless it is an extended stay rental, for each calendar day a hotel or motel~~  
 60 ~~room is rented or leased. The innkeeper shall collect the fee at the time the customer pays~~  
 61 ~~for the rental or lease of such hotel or motel room. The innkeeper collecting the fee shall~~  
 62 ~~remit the fee on a monthly basis to the department.~~

63 (b)(1) On and after July 1, 2019, an excise tax of \$5.00 per night shall be levied upon the  
 64 furnishing for value to the public of any room, lodging, or accommodation furnished by  
 65 an innkeeper.

66 (2) The tax levied by this Code section shall be collected by each innkeeper at the time  
 67 the customer pays for the rental or lease of such room, lodging, or accommodation. The  
 68 innkeeper collecting such tax shall remit the fees from such tax to the department on a  
 69 monthly basis.

70 (3) Extended stay rentals shall be exempt from the tax levied by this Code section.

71 (c) The commissioner shall promulgate and make available forms for the use of innkeepers  
 72 to assist in compliance with this Code section. The commissioner shall promulgate rules  
 73 and regulations as necessary to implement and administer the provisions of this Code  
 74 section.

75 (d) It is the intention of the General Assembly, subject to appropriations, that the fees  
 76 collected pursuant to subsection (b) of this Code section shall be made available and used  
 77 exclusively for transportation purposes in this state.

78 (e) If the amount collected under this Code section is ever not appropriated for a fiscal year  
 79 as provided by subsection (d) of this Code section, as determined jointly by the House  
 80 Budget and Research Office and the Senate Budget and Evaluation Office, then the amount  
 81 collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in  
 82 which the amount collected is not so appropriated, this Code section shall stand repealed  
 83 and reserved, and such fees shall cease to be collected, on the date the appropriations Act  
 84 for such fiscal year becomes effective. Such budget offices shall certify any such lack of  
 85 appropriation to the Code Revision Commission for purposes of updating the Code in  
 86 accordance with this subsection."

87 **SECTION 3.**

88 Said article is further amended in Code Section 48-13-51, relating to county and municipal  
 89 levies on public accommodations, by revising paragraph (1) of subsection (a), paragraphs (1),  
 90 (2), and (3) of subsection (b), and subsection (b.1) as follows:

91 "(a)(1)(A)(i) The governing authority of each municipality in this state may levy and  
 92 collect an excise tax upon the furnishing for value to the public of any room or rooms,  
 93 lodgings, or accommodations ~~facilitated or~~ furnished by an innkeeper ~~any person or~~  
 94 ~~legal entity licensed by, or required to pay business or occupation taxes to, the~~  
 95 ~~municipality for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin,~~  
 96 ~~campground, or any other place in which rooms, lodgings, or accommodations are~~  
 97 regularly furnished for value.

98 (ii) Within the territorial limits of the special district located within the county, each  
 99 county in this state may levy and collect an excise tax upon the furnishing for value  
 100 to the public of any room or rooms, lodgings, or accommodations facilitated or  
 101 furnished by any person or legal entity licensed by, or required to pay business or  
 102 occupation taxes to, the county for operating within the special district a hotel, motel,  
 103 inn, lodge, tourist camp, tourist cabin, campground, or any other place in which  
 104 rooms, lodgings, or accommodations are regularly furnished for value an innkeeper.

105 (iii) The provisions of this Code section shall control over the provisions of any local  
 106 ordinance or resolution to the contrary enacted pursuant to Code Section 48-13-53 and  
 107 in effect prior to July 1, 1998, or enacted pursuant to this article and in effect prior to  
 108 July 1, 2019. Any such ordinance shall not be deemed repealed by this Code section  
 109 but shall be administered in conformity with this Code section.

110 (B)(i) The excise tax shall be imposed on any person or legal entity licensed by or  
 111 required to pay a business or occupation tax to the governing authority imposing the  
 112 tax for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground,  
 113 or any other place in which rooms, lodgings, or accommodations are regularly  
 114 furnished for value the innkeeper and shall apply to the furnishing for value of any  
 115 room, lodging, or accommodation. Every person or entity subject to a tax levied as  
 116 provided in this Code section shall, except as provided in this Code section, be liable  
 117 for the tax at the applicable rate on the lodging charges actually collected or, if the  
 118 amount of taxes collected from the hotel or motel guest is in excess of the total  
 119 amount that should have been collected, the total amount actually collected must be  
 120 remitted.

121 (ii) Any tax levied as provided in this Code section is also imposed upon every  
 122 person or entity who is a hotel or motel guest and who receives a room, lodging, or  
 123 accommodation that is subject to the tax levied under this Code section. Every such  
 124 guest subject to the tax levied under this Code section shall pay the tax to the person  
 125 or entity innkeeper providing or facilitating the room, lodging, or accommodation.  
 126 The tax shall be a debt of the person obtaining the room, lodging, or accommodation  
 127 to the person or entity innkeeper providing or facilitating such room, lodging, or  
 128 accommodation until it is paid and shall be recoverable at law by the person or entity  
 129 innkeeper providing or facilitating such room, lodging, or accommodation in the same  
 130 manner as authorized for the recovery of other debts. The person or entity innkeeper  
 131 collecting the tax from the hotel or motel guest shall remit the tax to the governing  
 132 authority imposing the tax, and the tax remitted shall be a credit against the tax  
 133 imposed by division (i) of this subparagraph on the person or entity innkeeper  
 134 providing or facilitating the room, lodging, or accommodation.

135 (C) Reserved.

136 (D) Except as provided in paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5),  
 137 (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), and (5.3) of this  
 138 subsection, no tax levied pursuant to this Code section shall be levied or collected at a  
 139 rate exceeding 3 percent of the charge to the public for the furnishings."

140 "(b)(1) Except as provided in paragraphs (2) and (3) of subsection (a) of this Code  
 141 section, any new excise taxes which are first levied pursuant to this Code section after  
 142 July 1, 2008, or any new excise tax which is first levied following the termination of a  
 143 previous levy pursuant to this Code section after July 1, 2008, shall be levied pursuant  
 144 to this subsection.

145 (2) The governing authority of each municipality in this state may levy an excise tax  
 146 pursuant to this subsection at a rate not to exceed 8 percent of the charge for the  
 147 furnishing for value to the public of any room or rooms, lodgings, or accommodations  
 148 furnished or facilitated by ~~any person or legal entity licensed by, or required to pay~~  
 149 ~~business or occupation taxes to, the municipality for operating a hotel, motel, inn, lodge,~~  
 150 ~~tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or~~  
 151 ~~accommodations are regularly or periodically furnished for value~~ an innkeeper.

152 (3) Within the territorial limits of the special district located within the county, each  
 153 county in this state may levy an excise tax pursuant to this subsection at a rate not to  
 154 exceed 8 percent of the charge for the furnishing for value to the public of any room or  
 155 rooms, lodgings, or accommodations furnished or facilitated by ~~any person or legal entity~~  
 156 ~~licensed by, or required to pay business or occupation taxes to, the county for operating~~  
 157 ~~within the special district a hotel, motel, inn, lodge, tourist camp, tourist cabin,~~  
 158 ~~campground, or any other place in which rooms, lodgings, or accommodations are~~  
 159 ~~regularly or periodically furnished for value~~ an innkeeper."

160 "(b.1) As an alternative to the provisions of subsection (b) of this Code section, any county  
 161 (within the territorial limits of the special district located within the county) and any  
 162 municipality which is levying a tax under this Code section at the rate of 6 percent under  
 163 paragraph (3.4) or (4) of subsection (a) of this Code section shall be authorized to levy a  
 164 tax under this Code section at the rate of 7 percent in the manner provided in this  
 165 subsection. Both the county and municipality shall adopt a resolution which shall specify  
 166 that an amount equal to the total amount of taxes collected under such levy at a rate of 6  
 167 percent shall continue to be expended as it was expended pursuant to either paragraph (3.4)  
 168 or (4) of subsection (a) of this Code section, as applicable, and such resolution shall specify  
 169 the manner of expenditure of funds for an amount equal to the total amount of taxes  
 170 collected under such levy that exceeds the amount that would be collected at the rate of 6  
 171 percent for any tourism, convention, or trade show purposes, tourism product development

172 purposes, or any combination thereof. Each resolution shall be required to be ratified by  
173 a local Act of the General Assembly. Only when both such local Acts have become law,  
174 the governing authority of the county and municipality shall be authorized to levy an excise  
175 tax pursuant to this subsection at the rate of 7 percent of the charge for the furnishing for  
176 value to the public of any room or rooms, lodgings, or accommodations furnished or  
177 facilitated by any person or legal entity licensed by, or required to pay business or  
178 ~~occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist camp,~~  
179 ~~tourist cabin, campground, or any other place in which rooms, lodgings, or~~  
180 ~~accommodations are regularly or periodically furnished for value~~ an innkeeper."

181 **SECTION 4.**

182 This Act shall become effective on July 1, 2019, and shall apply to each incidence of the  
183 furnishing for value to the public any rooms, lodgings, or accommodations occurring on or  
184 after July 1, 2019.

185 **SECTION 5.**

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