

The House Committee on Ways and Means offers the following substitute to HB 448:

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) Any person that acts as a lodging facilitator to facilitate the furnishing for value to
21 the public any room or rooms, lodgings, or accommodations on behalf of any person
22 that is not an innkeeper described in subparagraph (A) of this paragraph shall constitute
23 the innkeeper with respect to such furnishing for value. A lodging facilitator shall not
24 constitute an innkeeper with respect to any furnishing for value to the public any room
25 or rooms, lodgings, or accommodations on behalf of an innkeeper.

26 (2.1) 'Lodging facilitator' means a person within or outside this state that contracts with
 27 one or more persons to make available or facilitate the furnishing for value to the public
 28 any room or rooms, lodgings, or accommodations in this state on behalf of another person
 29 in exchange for any form of consideration, by directly, or indirectly through a related
 30 member as defined in Code Section 48-7-28.3 or through any agreement or arrangement
 31 with another person:

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

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

42 provided that the total value of all charges on such furnishing for value in this state,
 43 combined across all persons for which it acts as a lodging facilitator, equals or exceeds
 44 \$100,000.00 in aggregate in the previous or current calendar year."

45 **SECTION 2.**

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

49 "48-13-50.3.

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

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

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

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

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

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

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

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

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

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

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

90 **SECTION 3.**

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

94 "(a)(1)(A)(i) The governing authority of each municipality in this state may levy and
 95 collect an excise tax upon the furnishing for value to the public of any room or rooms,
 96 lodgings, or accommodations facilitated or furnished by an innkeeper ~~any person or~~

97 ~~legal entity licensed by, or required to pay business or occupation taxes to, the~~
 98 ~~municipality for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin,~~
 99 ~~campground, or any other place in which rooms, lodgings, or accommodations are~~
 100 ~~regularly furnished for value.~~

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

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

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

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

134 collecting the tax from the ~~hotel or motel~~ guest shall remit the tax to the governing
 135 authority imposing the tax, and the tax remitted shall be a credit against the tax
 136 imposed by division (i) of this subparagraph on the ~~person or entity~~ innkeeper
 137 providing or facilitating the room, lodging, or accommodation.

138 (C) Reserved.

139 (D) Except as provided in paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5),
 140 (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
 141 subsection, no tax levied pursuant to this Code section shall be levied or collected at a
 142 rate exceeding 3 percent of the charge to the public for the furnishings."

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

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

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

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

171 or (4) of subsection (a) of this Code section, as applicable, and such resolution shall specify
172 the manner of expenditure of funds for an amount equal to the total amount of taxes
173 collected under such levy that exceeds the amount that would be collected at the rate of 6
174 percent for any tourism, convention, or trade show purposes, tourism product development
175 purposes, or any combination thereof. Each resolution shall be required to be ratified by
176 a local Act of the General Assembly. Only when both such local Acts have become law,
177 the governing authority of the county and municipality shall be authorized to levy an excise
178 tax pursuant to this subsection at the rate of 7 percent of the charge for the furnishing for
179 value to the public of any room or rooms, lodgings, or accommodations furnished or
180 facilitated by any person or legal entity licensed by, or required to pay business or
181 occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist camp,
182 tourist cabin, campground, or any other place in which rooms, lodgings, or
183 accommodations are regularly or periodically furnished for value an innkeeper."

184 **SECTION 4.**

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

188 **SECTION 5.**

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