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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

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

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

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

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

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

SECTION 2.

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

48-13-50.3.

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

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

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

(3) 'Transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including general obligation debt and other multiyear obligations issued to finance such purposes.
(b) On or after July 1, 2015, each innkeeper in this state shall charge a $5.00 per night fee to the customer, unless it is an extended stay rental, for each calendar day a hotel or motel room is rented or leased. The innkeeper shall collect the fee at the time the customer pays for the rental or lease of such hotel or motel room. The innkeeper collecting the fee shall remit the fee on a monthly basis to the department.

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

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

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

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

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

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

SECTION 3.

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

"(a)(1)(A)(i) The governing authority of each municipality in this state may levy and collect an excise tax upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations facilitated or furnished by an innkeeper any person or
(ii) Within the territorial limits of the special district located within the county, each county in this state may levy and collect an excise tax upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations facilitated or furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to, the county for operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value.

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

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

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

(C) Reserved.

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

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

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

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

"(b.1) As an alternative to the provisions of subsection (b) of this Code section, any county (within the territorial limits of the special district located within the county) and any municipality which is levying a tax under this Code section at the rate of 6 percent under paragraph (3.4) or (4) of subsection (a) of this Code section shall be authorized to levy a tax under this Code section at the rate of 7 percent in the manner provided in this subsection. Both the county and municipality shall adopt a resolution which shall specify that an amount equal to the total amount of taxes collected under such levy at a rate of 6 percent shall continue to be expended as it was expended pursuant to either paragraph (3.4)
or (4) of subsection (a) of this Code section, as applicable, and such resolution shall specify
the manner of expenditure of funds for an amount equal to the total amount of taxes
collected under such levy that exceeds the amount that would be collected at the rate of 6
percent for any tourism, convention, or trade show purposes, tourism product development
purposes, or any combination thereof. Each resolution shall be required to be ratified by
a local Act of the General Assembly. Only when both such local Acts have become law,
the governing authority of the county and municipality shall be authorized to levy an excise
tax pursuant to this subsection at the rate of 7 percent of the charge for the furnishing for
value to the public of any room or rooms, lodgings, or accommodations furnished or
facilitated by any person or legal entity licensed by, or required to pay business or
occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist camp,
tourist cabin, campground, or any other place in which rooms, lodgings, or
accommodations are regularly or periodically furnished for value an innkeeper.”

SECTION 4.

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

SECTION 5.

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