

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1511** Session of
2017

INTRODUCED BY M. QUINN, CORR, BARBIN, DOWLING, W. KELLER,
MILLARD, PASHINSKI, SCHLOSSBERG, WARREN, D. COSTA, WATSON,
SOLOMON, CORBIN, HILL-EVANS, SIMS, STAATS, KORTZ AND
DRISCOLL, JUNE 7, 2017

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 15, 2018

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in hotel occupancy tax, further providing for
11 definitions and for imposition of tax and establishing the
12 Tourism Promotion Fund.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 209(a) and 210 of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
17 amended to read:

18 Section 209. Definitions.--(a) For the purposes of this
19 part V only, the following words, terms and phrases shall have
20 the meaning ascribed to them in this subsection, except where
21 the context clearly indicates a different meaning:

1 [(1) "Hotel." A building or buildings in which the public
2 may, for a consideration, obtain sleeping accommodations. The
3 term "hotel" shall not include any charitable, educational or
4 religious institution summer camp for children, hospital or
5 nursing home.]

6 (1.1) "Accommodation fee." The amount by which the rent
7 exceeds the discount room charge, if any.

8 (1.2) "Booking agent." A person or entity which facilitates
9 or collects payment for hotel accommodations on behalf of or for
10 an operator. The term "booking agent" shall not include a person
11 who merely publishes advertisements for accommodations.

12 (1.3) "Discount room charge." The amount charged by an
13 operator to a booking agent in connection with the sale of an
14 accommodation by the booking agent.

15 (1.4) "Hotel." A building or buildings in which the public
16 may, for consideration, obtain sleeping accommodations. The term
17 "hotel" shall not include any charitable, educational or
18 religious institution summer camp for children, hospital or
19 nursing home.

20 (2) "Occupant." A person (other than a "permanent resident,"
21 as defined herein,) who, for a consideration, uses, possesses or
22 has a right to use or possess any room or rooms in a hotel under
23 any lease, concession, permit, right of access, license or
24 agreement.

25 (3) "Occupancy." The use or possession or the right to the
26 use or possession by any person (other than a "permanent
27 resident,") of any room or rooms in a hotel for any purpose or
28 the right to the use or possession of the furnishings or to the
29 services and accommodations accompanying the use and possession
30 of the room or rooms.

1 (4) "Operator." Any person operating a hotel or acting as a
2 booking agency.

3 (5) "Permanent resident." Any occupant who has occupied or
4 has the right to occupancy of any room or rooms in a hotel for
5 at least thirty consecutive days.

6 (6) "Rent." The consideration received for occupancy valued
7 in money, whether received in money or otherwise, including all
8 receipts, cash, credits and property or services of any kind or
9 nature, [and also] accommodation fees and any amount for which
10 the occupant is liable for the occupancy without any deduction
11 therefrom whatsoever, including any amount charged by a booking
12 agent. The term "rent" shall not include a gratuity.

13 * * *

14 Section 210. Imposition of Tax.--(a) There is hereby
15 imposed an excise tax of six per cent of the rent upon every
16 occupancy of a room or rooms in a hotel in this Commonwealth,
17 which tax shall be collected by the operator from the occupant
18 and paid over to the Commonwealth as herein provided. If a <--

19 booking agent, acting for an operator, collects payment for the
20 rent, the booking agent must collect and remit the tax. IF A <--
21 BOOKING AGENT, ACTING FOR AN OPERATOR, COLLECTS PAYMENT FOR
22 RENT, THE BOOKING AGENT MUST COLLECT AND REMIT THE FOLLOWING:

23 (1) THE TAX IMPOSED UNDER THIS SECTION.

24 (2) ANY ADDITIONAL OR OPTIONAL HOTEL TAX IMPOSED UNDER:

25 (I) THE ACT OF JUNE 5, 1991 (P.L.9, NO.6), KNOWN AS THE
26 "PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR
27 CITIES OF THE FIRST CLASS";

28 (II) THE ACT OF DECEMBER 21, 1998 (P.L.1307, NO.174), KNOWN
29 AS THE "COMMUNITY AND ECONOMIC IMPROVEMENT ACT";

30 (III) 64 PA.C.S. CH. 60 (RELATING TO PENNSYLVANIA CONVENTION

1 CENTER AUTHORITY);

2 (IV) ARTICLES XVII AND XXIII OF THE ACT OF AUGUST 9, 1955
3 (P.L.323, NO.130), KNOWN AS "THE COUNTY CODE"; OR

4 (V) THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE
5 "SECOND CLASS COUNTY CODE."

6 (B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,
7 THE FOLLOWING SHALL APPLY:

8 (1) THE COLLECTED AND REMITTED TAX IMPOSED UNDER (A) (1)
9 SHALL BE DEPOSITED INTO THE TOURISM PROMOTION FUND ESTABLISHED
10 UNDER SECTION 212.

11 (2) THE COLLECTED AND REMITTED TAX IMPOSED UNDER PARAGRAPH
12 (A) (2) SHALL BE DEPOSITED IN ACCORDANCE WITH A COUNTY ORDINANCE.

13 ~~(b) (C) An operator shall not be liable for tax owed~~ <--
14 ~~regarding an accommodation fee.~~

15 ~~(e) (D) A booking agent shall not be required to separately~~ <--
16 ~~disclose to an occupant the amount of the tax imposed that~~
17 ~~relates to a discount room charge versus an accommodation fee.~~

18 Section 2. The act is amended by adding a section to read:

19 Section 212. Tourism Promotion Fund.--(a) A restricted
20 revenue account is established within the Treasury Department to
21 be known as the Tourism Promotion Fund.

22 ~~(b) Of the amount collected under this article, ten million~~ <--
23 ~~dollars (\$10,000,000) shall be transferred annually to the~~
24 ~~Tourism Promotion Fund. THE TAX COLLECTED BY A BOOKING AGENT ON~~ <--
25 ~~ACCOMMODATION FEES UNDER SECTION 210 SHALL BE DEPOSITED INTO THE~~
26 ~~FUND AND DISBURSED UPON APPROPRIATION FOR THE PURPOSE OF~~
27 ~~PROMOTING TOURISM IN THIS COMMONWEALTH.~~

28 (c) The department shall promulgate guidelines, rules and
29 regulations as necessary to achieve the purpose of promoting
30 tourism in this Commonwealth.

1 (c.1) Money from the fund may not be used for the promotion
2 or marketing operations of a tourism entity or for special
3 events or grants until thirty days after the publication of the
4 guidelines, rules and regulations under subsection (c) in the
5 Pennsylvania Bulletin.

6 (c.2) The following shall apply:

7 (1) No more than fifty per cent of the funds available for
8 disbursement under subsection (b) may be distributed for the
9 purposes of promotion or marketing operations of a tourism
10 entity or for special events or grants.

11 (2) Funding for the promotion or marketing operations of a
12 tourism entity, special events or grants shall require a fifty
13 per cent cash or in-kind match.

14 (3) A single recipient of funding under subsection (c.2)(2)
15 may not be awarded more than fifteen per cent of the total funds
16 available for disbursement under subsection (b). This paragraph
17 shall not apply to contracts entered into by the department for
18 statewide tourism promotion or marketing.

19 (c.3) Funds available for disbursement under subsection (b)
20 may not be used for capital projects or for the design,
21 construction, rehabilitation, repair, installation or purchase
22 of any building, structure or sign in this Commonwealth.

23 (d) As used in this section, the following words and phrases
24 shall have the meanings given to them in this subsection unless
25 the context clearly indicates otherwise:

26 "Department." The Department of Community and Economic
27 Development of the Commonwealth.

28 "Fund." The Tourism Promotion Fund established under
29 subsection (a).

30 "Promoting tourism." Activities and expenditures designed to

1 increase tourism including, but not limited to, the following:

2 (1) Advertising, publicizing or otherwise distributing
3 information for the purpose of attracting and welcoming
4 tourists.

5 (2) Developing strategies to expand tourism.

6 (3) Funding the promotion or marketing operations of a
7 tourism entity.

8 (4) Funding marketing and operations of special events
9 and festivals designed to attract tourists.

10 "Tourism entity." A "tourism promotion agency" as defined in
11 section 2 of the act of July 4, 2008 (P.L.621, No.50), known as
12 the Tourism Promotion Act, destination marketing organization or
13 regional attractions marketing agency.

14 Section 3. This act shall take effect in ~~60~~ 90 days.

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