PRINTER'S NO. 4164

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2515 Session of 2014

INTRODUCED BY STERN, SEPTEMBER 23, 2014

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT, SEPTEMBER 23, 2014

AN ACT

Amending the act of August 9, 1955 (P.L.323, No.130), entitled, as amended, "An act relating to counties of the first, third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto; relating to imposition of excise taxes by counties, including authorizing imposition of an excise tax on the rental of motor vehicles by counties of the first class; and providing for regional renaissance initiatives," in fiscal affairs, repealing provisions relating to authorization of excise tax and authorization of hotel tax; and providing for hotel room rental tax in third through eighth class counties and for certification of recognized tourist promotion agencies.

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

Section 1. Sections 1770.2 and 1770.6 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended or added December 22, 2000 (P.L.1019, No.142) and July 5, 2005 (P.L.38, No.12), are repealed:

[Section 1770.2. Authorization of Excise Tax.--(a) The county commissioners of any county which has a recognized tourist promotion agency designated to act within the county may impose an excise tax not to exceed three per centum of the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to transients. The tax shall be collected by the operator from the patron of the room or rooms and paid over to the county as herein provided.

(b) The county commissioners may by ordinance impose requirements for keeping of records, the filing of tax returns and the time and manner of collection and payment of tax. The county commissioners may also impose by ordinance penalties and interest for failure to comply with recordkeeping, filing, collection and payment requirements.

(c) The treasurer of each county electing to impose the tax authorized under this section shall collect the tax and deposit the revenues received from the tax in a special fund established for that purpose. After deducting from the fund any direct or indirect costs attributable to collection of the tax, the county shall distribute to the recognized tourist promotion agency designated to act within the county all revenues received from the tax not later than sixty days after receipt of the tax revenues. The revenues from the special fund shall be used by the recognized tourist promotion agency for any or all of the following purposes:

(1) Convention promotion.

(2) Marketing the area served by the agency as a leisure travel destination.

(3) Marketing the area served by the agency as a business travel destination.

(4) Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, direct sales and

participation in industry trade shows.

(5) Projects or programs that are directly and substantially related to tourism within the county, augment and do not unduly compete with private sector tourism efforts and improve and expand the county as a destination market.

(6) Any other tourism marketing or promotion program deemed necessary by the recognized tourist promotion agency.

(d) The tax year for a tax imposed under this section shall run concurrently with the calendar year.

(e) An audited report on the income and expenditures incurred by a recognized tourist promotion agency receiving any revenues from the tax authorized under this section shall be submitted annually by the recognized tourist promotion agency to the county commissioners.

(e.1) Notwithstanding any other provision of subsection (b) or any other provision of law to the contrary, in counties of the third class having a population under the 1990 Federal Decennial Census in excess of 415,000 residents but less than 500,000 residents, a penalty of one and one-half per centum per month shall be imposed for failure to timely remit the tax authorized by this section. In addition to other remedies available for collection of debts, the county may also file a lien upon the hotel in the name of and for the use of the county as provided by law for municipal claims.

(f) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Consideration." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

"County." Any county which is on the effective date of this act a county of the third class having a population under the 1990 Federal Decennial Census in excess of 337,000 residents, but less than 341,000 residents, or a county of the third class having a population under the 1990 Federal Decennial Census in excess of 374,000 residents, but less than 380,000 residents, or a county of the third class having a population under the 1990 Federal Decennial Census in excess of 415,000 residents, but less than 500,000 residents, or a county of the fourth class having a population under the 1990 Federal Decennial Census in excess of 159,000 residents, but less than 175,000 residents, or a county of the fifth class having a population under the 1990 Federal Decennial Census in excess of 123,000 residents, or a county of the fifth class having a population under the 1990 Federal Decennial Census in excess of 117,000 residents, but less than 121,050 residents, or a county of the sixth class having a population under the 1990 Federal Decennial Census in excess of 87,000 residents.

"Hotel." A hotel, motel, inn, guest house or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; or any place recognized as a hostelry. The term does not include any portion of a facility that is devoted to persons who have an established permanent residence or a college or university student residence hall or any private campground, or any cabins, public campgrounds or other facilities located on State land.

"Occupancy." The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

"Operator." An individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron." A person who pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent resident." A person who has occupied or has the right to occupancy of a room or rooms in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

"Recognized tourist promotion agency." The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties served by the agency as that term is defined in the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law."

"Room." A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation in a room or group of rooms.

"Transaction." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or an implied contract.

"Transient." An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

Section 1770.6. Authorization of Hotel Tax.--(a) Except as provided for in section 1770.7, the county commissioners of any county may impose an excise tax on the consideration received by each operator of a hotel, as defined by this section, from each transaction of renting a room or rooms to accommodate transients. If levied, the tax shall be collected by the operator from the patron of the room and paid over to the county and shall be known as the hotel room rental tax.

(b) The rate of the tax imposed under this section shall not exceed three per centum.

(c) The treasurer of each county electing to impose the tax authorized under this section shall collect the tax and deposit the revenues received from the tax in a special fund established for that purpose. Subsequent to the deduction for administrative costs established in subsection (e), the county shall distribute to the recognized tourist promotion agency all revenues received from the tax not later than sixty days after receipt of the tax revenues. The revenues from the special fund shall be used by the recognized tourist promotion agency for any or all of the following purposes:

(1) Convention promotion.

(2) Marketing the area served by the agency as a leisure travel destination.

(3) Marketing the area served by the agency as a business travel destination.

(4) Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, direct sales and participation in industry trade shows.

(5) Projects or programs that are directly and substantially related to tourism within the county, augment and do not unduly compete with private sector tourism efforts and improve and expand the county as a destination market.

(6) Any other tourism marketing or promotion program deemed necessary by the recognized tourist promotion agency.

(d) Each tax year for any tax imposed hereunder shall run concurrently with the county's fiscal year.

(d.1) An audited report on the income and expenditures incurred by a recognized tourist promotion agency receiving any revenues from the tax authorized under this section shall be submitted annually by the recognized tourist promotion agency to the county commissioners.

(e) For the purposes of defraying the costs associated with the collection of the tax imposed hereunder and otherwise performing its obligations under this section, the county is hereby authorized to deduct and retain an administrative fee from the taxes collected hereunder. Such administrative fee shall be established by the county but shall not exceed in any tax year the lesser of:

(1) two per centum of all taxes collected hereunder; or

(2) forty thousand dollars ($40,000), which amount shall be adjusted biannually, beginning two years after the date of enactment, by the percentage growth in the Consumer Price Index

for All Urban Consumers as determined by the United States Department of Labor.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Bed and breakfast" or "homestead." A public accommodation consisting of a private residence, which contains ten or fewer bedrooms, used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room.

"Consideration." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

"County." Any county of the third class through the eighth class which on the effective date of this section does not have the authority to levy a hotel occupancy or room rental tax.

"Hotel." A hotel, motel, bed and breakfast, homestead, inn, guest house or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; or any place recognized as a hostelry. The term does not include any portion of a facility that is devoted to persons who have an established permanent residence or a college or university student residence hall or any private campground or any cabins, public campgrounds or other facilities located on State land.

"Occupancy." The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

"Operator." An individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron." A person who pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent resident." A person who has occupied or has the right to occupancy of a room or rooms in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

"Recognized tourist promotion agency." The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties served by the agency as that term is defined in the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law."

"Room." A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation in a room or group of rooms.

"Transaction." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or an implied contract.

"Transient." An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

"Treasurer." The elected treasurer of the county or, if there is no elected treasurer of the county, such other official or agent of the county as may be designated by the county to collect and account for the tax authorized by this section.]

Section 2. The act is amended by adding sections to read:

Section 1770.10. Hotel Room Rental Tax in Third through Eighth Class Counties.--(a) A county may, by ordinance, impose a tax which shall be known as the hotel room rental tax on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the county where the hotel is located as provided under this section.

(b) The rate of tax imposed under this section shall not exceed five per centum.

(c) The treasurer of each county electing to impose the tax authorized under this section shall collect the tax and deposit the revenues received from the tax in a special fund established for that purpose. Subsequent to the deduction for administrative costs established in subsection (g), the county shall distribute to the recognized tourist promotion agency all revenues received from the tax not later than sixty days after receipt of the tax revenues.

(d) The revenues from the special fund shall be used by the recognized tourist promotion agency for any of the following purposes:

(1) Marketing the area served by the agency as a leisure travel destination.

(2) Marketing the area served by the agency as a business, convention or meeting travel destination.

(3) Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, sales, technology and participation in industry trade shows that attract tourists to the area served by the agency.

(4) Projects or programs that are directly and substantially related to tourism within the county, augment and do not compete with private sector tourism efforts and improve and expand the county as a destination market as deemed necessary by the recognized tourist promotion agency.

(5) Any other tourism marketing or promotion program or tourism project as deemed necessary by the recognized tourist promotion agency.

(e) Each taxable year for any tax imposed under this section shall run concurrently with the county's fiscal year.

(f) An audited report or financial statement, as determined by the county in consultation with the recognized tourist promotion agency, on the income and expenditures incurred by a recognized tourist promotion agency receiving any revenues from the tax authorized under this section shall be submitted annually by the recognized tourist promotion agency to the county commissioners.

(g) For the purposes of defraying the costs associated with the collection of the tax imposed under this section and otherwise performing its obligations under this section, the county may deduct and retain an administrative fee from the taxes collected under this section. The administrative fee shall be established by the county but shall not exceed five per centum in any taxable year.

(h) A penalty of one and one-half per centum per month shall be imposed for failure to timely collect and remit the tax authorized by this section. In addition to other remedies available for collection of debts, the county may file a lien upon the hotel in the name of the county and for the use of the county as provided by law.

(i) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Bed and breakfast" or "homestead." A public accommodation consisting of a private residence, which contains ten or fewer bedrooms, used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room.

"Consideration." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for a temporary period.

"County." Any county of the third through eighth class that was authorized to levy a hotel occupancy or room rental tax under the former section 1770.2 or 1770.6.

"Hotel." A hotel, motel, inn, guesthouse, rooming house, bed and breakfast, homestead or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry; or any private campground or any cabins, public campgrounds or cabins or other facilities located on State land or private property. The term does not include any charitable institution, or portion of a facility that is devoted to persons who have an established permanent residence or a college or university student residence hall currently occupied by students enrolled in a degree program, or an educational or religious institution summer camp for children, hospital or nursing home.

"Marketing." An action by a recognized tourism promotion agency that includes, but is not limited to, promoting and encouraging visitors to visit a specific county, counties or geographic region.

"Occupancy." The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

"Operator." Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a building to the public for consideration.

"Patron." Any person who pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent resident." A person who has occupied or has the right to occupancy of a room or rooms in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

"Recognized tourist promotion agency." The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within a county and certified by the county as of the effective date of this subsection or under section 1770.11.

"Room." A space in a building set aside for use and occupancy by patrons or otherwise, for consideration, having at least one bed or other sleeping accommodations provided; or, in campgrounds, a space of land set aside for occupancy by patrons or otherwise for consideration.

"Transaction." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an expressed or implied contract.

"Transient." An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

Section 1770.11. Certification of Recognized Tourist Promotion Agencies.--(a) A county may certify a nonprofit corporation, organization, association or agency to serve as the county's recognized tourist promotion agency. The county may not have more than one recognized tourist promotion agency.

(b) (1) A county must certify a recognized tourist promotion agency under subsection (a) by proper resolution of the governing body of the county, concurred in by resolution of the governing bodies of cities, boroughs, towns or townships within the county which have an aggregate of more than fifty per centum of the total population of the county as determined by the most recently completed Federal decennial census.

(2) A recognized tourist promotion agency shall operate until that agency has dissolved as an entity, withdrawn its certification or has been decertified by the county under subsection (c).

(c) (1) Notwithstanding any other provision of law, a county may decertify a recognized tourist promotion agency by proper resolution of the governing body of a county, concurred in by resolution of the governing bodies of cities, boroughs, towns or townships within the county which have an aggregate of more than sixty-five per centum of the total population of the county as determined by the most recently completed Federal decennial census.

(2) The county shall hold at least one public hearing on decertification no less than seven days before a meeting to adopt a resolution under this subsection.

(3) This subsection shall apply to recognized tourist promotion agencies, regardless of the date on which they were recognized under the act of July 4, 2008 (P.L.621, No.50), known as the Tourism Promotion Act, or certified by the county under this section.

Section 3. This act shall take effect immediately.