

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 300 Session of 2011

INTRODUCED BY YAW, TARTAGLIONE, FONTANA, GORDNER, PILEGGI,
SOLOBAY, WAUGH, M. WHITE, BAKER, WOZNIAK AND EARLL,
JANUARY 27, 2011

REFERRED TO FINANCE, JANUARY 27, 2011

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," further providing for definitions relating to the
11 hotel occupancy tax; and making certain related repeals.

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

14 Section 1. Section 209(a) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May
16 2, 1974 (P.L.269, No.75), is amended to read:

17 Section 209. Definitions.--(a) For the purposes of this
18 part V only and for the purposes of any hotel and occupancy tax
19 levied and enacted by a political subdivision of the
20 Commonwealth, the following words, terms and phrases shall have
21 the meaning ascribed to them in this subsection, except where
22 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.] As follows:

6 (i) Any hotel, motel, bed and breakfast, homestead, inn,
7 guesthouse or other structure which holds itself out by any
8 means, including advertising, license, registration with any
9 innkeeper's group, convention listing association, travel
10 publication or similar association or with any government
11 agency, as being available to provide overnight lodging or use
12 of facility space for consideration to individuals seeking
13 temporary accommodation.

14 (ii) Any place which advertises to the public at large or
15 any segment of the public that it will provide beds, sanitary
16 facilities or other space for a temporary period to members of
17 the public at large.

18 (iii) Any place recognized as a hostelry.

19 (iv) The term shall not include any charitable, educational
20 or religious institution summer camp for children, hospital or
21 nursing home, a college or university student residence hall or
22 any private campground, or any cabins, public campgrounds or
23 other facilities located on State land, or a portion of a
24 facility which is devoted to individuals who have established a
25 domicile.

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

1 (3) "Occupancy." The use or possession or the right to the
2 use or possession by any person (other than a "permanent
3 resident,") of any room or rooms in a hotel for any purpose or
4 the right to the use or possession of the furnishings or to the
5 services and accommodations accompanying the use and possession
6 of the room or rooms.

7 (4) "Operator." Any person operating a hotel.

8 (5) "Permanent resident." Any occupant who has occupied or
9 has the right to occupancy of any room or rooms in a hotel [for
10 at least thirty consecutive days] as a domicile.

11 (6) "Rent." The consideration received for occupancy valued
12 in money, whether received in money or otherwise, including all
13 receipts, cash, credits and property or services of any kind or
14 nature, and also any amount for which the occupant is liable for
15 the occupancy without any deduction therefrom whatsoever. The
16 term "rent" shall not include a gratuity.

17 (7) "Temporary." Without intent to establish a domicile.

18 (8) "Temporary resident." Any occupant who has occupied or
19 has the right to occupancy of any room or rooms in a hotel
20 without intention as a domicile.

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

26 (10) "Domicile." The voluntarily fixed place of habitation
27 of a person, not for a special or limited purpose, but with the
28 present intention of making a permanent home, until some event
29 occurs to induce the person to adopt some other permanent home.

30 * * *

1 Section 2. Repeals are as follows:

2 (1) The General Assembly declares that the repeals under
3 paragraph (2) are necessary to effectuate the amendment of
4 section 209(a) of the act.

5 (2) The following acts and parts of acts are repealed
6 insofar as they are inconsistent with the amendment of
7 section 209(a) of the act:

8 (i) Sections 1770.2, 1770.4, 1770.5, 1770.6, 1770.7
9 and 1770.8 of the act of August 9, 1955 (P.L.323,
10 No.130), known as The County Code.

11 (ii) 53 Pa.C.S. § 8721.

12 (iii) 64 Pa.C.S. § 6025.

13 Section 3. This act shall take effect in 60 days.