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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 721 Session of  
2017

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INTRODUCED BY RESCHENTHALER, FARNESE, ARGALL, BAKER, VOGEL,  
TARTAGLIONE, YUDICHAK, MCGARRIGLE, FONTANA, GORDNER, ALLOWAY,  
KILLION, SCAVELLO, STEFANO AND WILLIAMS, JUNE 26, 2017

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REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
JUNE 26, 2017

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AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania  
2 Consolidated Statutes, in economic development programs,  
3 providing for tourism promotion, establishing the Tourism  
4 Promotion Fund and imposing duties on the Department of  
5 Community and Economic Development.

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

8 Section 1. Title 12 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 43

11 TOURISM PROMOTION

12 Sec.

13 4301. Scope of chapter.

14 4302. Definitions.

15 4303. Hotel tax.

16 4304. Liability.

17 4305. Disclosure.

18 4306. Tourism Promotion Fund.

1 4307. Rules and regulations.

2 § 4301. Scope of chapter.

3 This chapter relates to the collection and remittance of a  
4 hotel tax to be used for tourism promotion in this Commonwealth.

5 § 4302. Definitions.

6 The following words and phrases when used in this chapter  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Accommodation fee." The amount by which the rent exceeds  
10 the discount room charge, if any.

11 "Consideration." Receipts, fees, charges, rentals, leases,  
12 cash, credits, property of any kind or nature or other payment  
13 received.

14 "Department." The Department of Community and Economic  
15 Development of the Commonwealth.

16 "Discount room charge." The amount charged by an operator to  
17 an intermediary in connection with the rental of an occupancy by  
18 the intermediary.

19 "Fund." The Tourism Promotion Fund established under section  
20 4306 (relating to Tourism Promotion Fund).

21 "Gratuity." An amount which is:

22 (1) paid or remitted for services performed in  
23 conjunction with an occupancy; and

24 (2) in excess of the charges and the tax for the  
25 occupancy, regardless of the method of billing or payment.

26 "Hotel."

27 (1) The term includes any of the following:

28 (i) A hotel, motel, inn, guest house or other  
29 structure which holds itself out by any means, including  
30 advertising, license, registration with an innkeepers'

1 group, convention listing association, travel publication  
2 or similar association or with a government agency, as  
3 being available to provide overnight lodging or use of  
4 facility space for consideration to persons seeking  
5 temporary accommodation.

6 (ii) A place which advertises to the public at large  
7 or any segment of the public that it will provide beds,  
8 sanitary facilities or other space for a temporary period  
9 to members of the public at large.

10 (iii) A place recognized as a hostelry.

11 (2) The term does not include any of the following:

12 (i) A portion of a facility that is devoted to  
13 persons who have an established permanent residence.

14 (ii) A college or university student residence hall.

15 (iii) A charitable, an educational or a religious  
16 summer camp for children.

17 (iv) A hospital or other institution having an  
18 organized medical staff that is primarily engaged in  
19 providing to inpatients, by or under the supervision of  
20 physicians, diagnostic and therapeutic services or  
21 rehabilitation services for the care or rehabilitation of  
22 injured, pregnant, diseased or sick individuals or  
23 individuals with physical or mental disabilities,  
24 including a facility for the diagnosis and treatment of  
25 disorders within the scope of specific medical  
26 specialties.

27 (v) A nursing home, personal care home, domiciliary  
28 care home, community residential facility, adult daily  
29 living center, home health agency or home health service  
30 provider whether licensed or unlicensed.

1 "Intermediary." A person that facilitates the booking of an  
2 occupancy. The term does not include an operator or a person  
3 that is paid a commission by an operator.

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

9 "Occupant." An individual, other than a permanent resident,  
10 who has booked an occupancy.

11 "Operator." An individual, partnership, nonprofit or profit-  
12 making association or corporation or other person or group of  
13 persons that maintains, operates, manages, owns, has custody of  
14 or otherwise possesses the right to rent or lease overnight  
15 accommodations in a hotel to the public for consideration.

16 "Permanent resident." An individual who has occupied or has  
17 the right to occupancy of a room in a hotel for at least 30  
18 consecutive days.

19 "Rent." The consideration received for an occupancy,  
20 excluding a gratuity. The term includes:

21 (1) An amount charged by an intermediary to an occupant  
22 and retained by the intermediary.

23 (2) An amount for which the occupant is liable for the  
24 occupancy without a deduction from the amount.

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

28 "Tourism promotion." Activities and expenditures designed to  
29 increase tourism, including, but not limited to, the following:

30 (1) Advertising, publicizing or otherwise distributing

1 information for the purpose of attracting and welcoming  
2 tourists.

3 (2) Developing strategies to expand tourism.

4 (3) Funding operations of tourism promotion agencies and  
5 regional attractions marketing agencies.

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

8 § 4303. Hotel tax.

9 (a) Collection.--An intermediary that facilitates the  
10 booking of an occupancy shall collect from the occupant the  
11 excise tax of 6% under section 210 of the act of March 4, 1971  
12 (P.L.6, No.2), known as the Tax Reform Code of 1971, which is  
13 imposed on the rent of the occupancy in this Commonwealth.

14 (b) Remittance.--The intermediary under subsection (a) shall  
15 remit the tax to the Commonwealth as provided in this chapter.

16 § 4304. Liability.

17 (a) Intermediary.--An intermediary shall be liable for the  
18 tax required to be collected and remitted under this chapter.

19 (b) Operator.--An operator shall not be liable for tax owed  
20 regarding an accommodation fee.

21 § 4305. Disclosure.

22 An intermediary shall not be required to separately disclose  
23 to an occupant the amount of the tax imposed that relates to a  
24 discount room charge versus an accommodation fee.

25 § 4306. Tourism Promotion Fund.

26 (a) Establishment.--The Tourism Promotion Fund is  
27 established as a restricted account within the General Fund.

28 (b) Deposits.--The tax collected by intermediaries under  
29 section 4303 (relating to hotel tax) shall be deposited into the  
30 fund and disbursed as provided in subsection (c).

1       (c) Appropriations.--Money from the fund shall be  
2 appropriated by the General Assembly on a continuing basis to  
3 the department for grants to achieve the purpose of tourism  
4 promotion in this Commonwealth.

5 § 4307. Rules and regulations.

6       The department shall promulgate guidelines, rules and  
7 regulations as necessary to implement this chapter and achieve  
8 the purpose of tourism promotion in this Commonwealth.

9       Section 2. This act shall take effect in 60 days.