

COUNTY CODE - AUTHORIZATION OF FIVE PER CENTUM HOTEL TAX IN  
CERTAIN COUNTIES OF THE FIFTH CLASS

Act of Jul. 12, 2012, P.L. 1182, No. 142

Cl. 16

Session of 2012

No. 2012-142

HB 1588

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, further providing for authorization of five per centum hotel tax in certain counties of the fifth class.

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

Section 1. Section 1770.7 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), is amended to read:

Section 1770.7. Authorization of [Three] **Five** Per Centum Hotel Tax.--(a) The county commissioners of any county of the [sixth] **fifth** class having a population under the [1990] **2010** Federal Decennial Census in excess of [78,250] **101,000** residents, but less than [79,000] **102,000** residents, may impose a hotel tax not to exceed [three] **five** 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 **provisions of subsection (b.1) notwithstanding**, 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.

**(b.1) Each operator of a hotel within a county that imposes the tax authorized under this section shall submit to an audit of hotel tax revenue. The audit shall be conducted by the county commissioners and shall consist, at a minimum, of determining the total amount of consideration received by the operator from transactions of renting a room or rooms to transients during the period being audited and the total amount of hotel tax revenue collected. The county commissioners or their duly authorized agents shall conduct at least one audit annually and shall bear the costs of the audit .**

(c) The [county commissioners of each county shall designate the entity or agency responsible to collect and to enforce the collection of the tax on their behalf. All revenues received from the tax shall be deposited into a special fund which is to be established by the county's legally sanctioned and duly

designated Tourist Promotion Agency (TPA). The] treasurer of each county that imposes 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. Subject to the deduction of the administrative fee authorized by subsection (e.2), the disposition of the revenues from the TPA hotel tax fund shall be as follows: [seventy-five per centum of all revenues received per annum shall be used by the TPA for the promotion, advertising and marketing of tourism and special events and for administrative costs. Twenty-five per centum of all revenues received per annum shall be used by the county commissioners for the purpose of economic development, historic preservation and grants to local municipalities having police departments. Any fees for administering the collection and distribution of the tax shall be negotiated by the TPA and the county commissioners.]

(1) Seventy-five per centum of all revenues received per annum shall be used by the county's recognized TPA for the promotion, advertising and marketing of tourism and special events and for administrative costs.

(2) Twenty-five per centum of all revenues received per annum shall be distributed as follows:

(i) Fifty per centum shall be used by the county commissioners for the purposes of economic development and historic preservation.

(ii) Fifty per centum shall be used by the county commissioners for grants to municipalities that:

(A) have a municipal police department employing at least two full-time police officers assigned to law enforcement duties who work a minimum of two hundred days per year; or

(B) are a member of a regional police department that provides full-time police services to the municipality pursuant to an agreement or contract.

(iii) Municipalities receiving grants under subclause (ii) must meet or have met the eligibility requirements under subclause (ii)(A) or (B) for a minimum of two years prior to receiving the grant.

[(d) 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.]

(d.1) Grants under subsection (c)(2)(ii) shall be distributed to municipalities in proportion to the number of hotel rooms within the municipality as a percentage of the total number of hotel rooms in municipalities with police departments under subsection (c)(2)(ii) as compiled by the recognized TPA and certified by the county commissioners. Grants shall be used for police and law enforcement purposes. Any portion of a grant not used for police and law enforcement purposes shall be returned to the county for the purposes of subsection (c)(2)(i).

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

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

(e.2) The county may deduct and retain an administrative fee from the taxes collected under this section. The administrative fee established by the county may not exceed in any tax year the lesser of:

(1) four and one-half per centum of all taxes collected under this section; or

(2) ninety-five thousand dollars (\$95,000), which amount shall be adjusted biannually, beginning two years after the effective date of this subsection, by the percentage growth in the Consumer Price Index for All Urban Consumers.

(e.3) Revenue collected from the fee imposed under subsection (e.2) shall be used for the following purposes:

(1) Defraying the costs associated with the collection and administration of the tax.

(2) Defraying the costs of the review required under subsection (b.1).

(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.

"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.

"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.

"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.

"Tourist Promotion Agency (TPA)." An organization, agency or corporation designated to be such by the board of commissioners as of January 1, 2000, of the county in which the tax is imposed. The TPA shall be duly established, designated and recognized as the county's TPA in accordance with and pursuant to the act of [April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law."] **July 4, 2008 (P.L.621, No.50), known as the "Tourism Promotion Act."**

"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 2. This act shall take effect immediately.

APPROVED--The 12th day of July, A.D. 2012.

TOM CORBETT