

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1588 Session of 2011

INTRODUCED BY MOUL AND TALLMAN, MAY 24, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 3, 2012

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled,
2 as amended, "An act relating to counties of the first, third,
3 fourth, fifth, sixth, seventh and eighth classes; amending,
4 revising, consolidating and changing the laws relating
5 thereto; relating to imposition of excise taxes by counties,
6 including authorizing imposition of an excise tax on the
7 rental of motor vehicles by counties of the first class; and
8 providing for regional renaissance initiatives," in fiscal
9 affairs, further providing for authorization of ~~three~~ FIVE
10 per centum hotel tax in certain counties of the ~~sixth~~ FIFTH
11 class.



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

14 Section 1. Section 1770.7 of the act of August 9, 1955
15 (P.L.323, No.130), known as The County Code, amended or added
16 December 22, 2000 (P.L.1019, No.142) and July 5, 2005 (P.L.38,
17 No.12), is amended to read:

18 Section 1770.7. Authorization of [Three] Five Per Centum
19 Hotel Tax.--(a) The county commissioners of any county of the
20 [~~sixth~~] FIFTH class having a population under the [1990] 2010
21 Federal Decennial Census in excess of [78,250] 101,000
22 residents, but less than [79,000] 102,000 residents, ~~and any~~



1 ~~county of the fifth class which as a result of the 1990 Federal~~
2 ~~Decennial Census was such a county of the sixth class and as a~~
3 ~~result of the 2010 Federal Decennial Census is reclassified as a~~
4 ~~county of the fifth class,~~ may impose a hotel tax not to exceed
5 [three] five per centum of the consideration received by each
6 operator of a hotel within the county from each transaction of
7 renting a room or rooms to transients. The tax shall be
8 collected by the operator from the patron of the room or rooms
9 and paid over to the county as herein provided.

10 (b) The provisions of subsection (b.1) notwithstanding,
11 county commissioners may by ordinance impose requirements for
12 keeping of records, the filing of tax returns and the time and
13 manner of collection and payment of tax. The county
14 commissioners may also impose by ordinance penalties and
15 interest for failure to comply with recordkeeping, filing,
16 collection and payment requirements.

17 (b.1) Each operator of a hotel within a county that imposes
18 the tax authorized under this section shall submit to a review ←
19 AN AUDIT of hotel tax revenue. The review AUDIT shall be ←
20 conducted by the county commissioners and shall consist, at a
21 minimum, of determining the total amount of consideration
22 received by the operator from transactions of renting a room or
23 rooms to transients during the period of review BEING AUDITED ←
24 and the total amount of hotel tax revenue collected. The county
25 commissioners or their duly authorized agents shall conduct the ←
26 review of each operator at least twice every twelve months AT ←
27 LEAST ONE AUDIT ANNUALLY and shall bear the costs of the review ←
28 AUDIT. ←

29 (c) The [county commissioners of each county shall designate
30 the entity or agency responsible to collect and to enforce the

1 collection of the tax on their behalf. All revenues received
2 from the tax shall be deposited into a special fund which is to
3 be established by the county's legally sanctioned and duly
4 designated Tourist Promotion Agency (TPA). The] treasurer of
5 each county that imposes the tax authorized under this section
6 shall collect the tax and deposit the revenues received from the
7 tax in a special fund established for that purpose. Subject to
8 the deduction of the administrative fee authorized by subsection
9 (e.2), the disposition of the revenues from the TPA hotel tax
10 fund shall be as follows: [seventy-five per centum of all
11 revenues received per annum shall be used by the TPA for the
12 promotion, advertising and marketing of tourism and special
13 events and for administrative costs. Twenty-five per centum of
14 all revenues received per annum shall be used by the county
15 commissioners for the purpose of economic development, historic
16 preservation and grants to local municipalities having police
17 departments. Any fees for administering the collection and
18 distribution of the tax shall be negotiated by the TPA and the
19 county commissioners.]

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

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

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

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

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

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

7 (III) MUNICIPALITIES RECEIVING GRANTS UNDER SUBCLAUSE (II) ←
8 MUST MEET OR HAVE MET THE ELIGIBILITY REQUIREMENTS UNDER
9 SUBCLAUSE (II) (A) OR (B) FOR A MINIMUM OF TWO YEARS PRIOR TO
10 RECEIVING THE GRANT.

11 [(d) The treasurer of each county electing to impose the tax
12 authorized under this section shall collect the tax and deposit
13 the revenues received from the tax in a special fund established
14 for that purpose.]

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

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

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

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

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

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

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

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

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

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

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

24 "Hotel." A hotel, motel, inn, guest house or other structure
25 which holds itself out by any means, including advertising,
26 license, registration with an innkeepers' group, convention
27 listing association, travel publication or similar association
28 or with a government agency, as being available to provide
29 overnight lodging or use of facility space for consideration to
30 persons seeking temporary accommodation; any place which

1 advertises to the public at large or any segment thereof that it
2 will provide beds, sanitary facilities or other space for a
3 temporary period to members of the public at large; or any place
4 recognized as a hostelry. The term does not include any portion
5 of a facility that is devoted to persons who have an established
6 permanent residence or a college or university student residence
7 hall.

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

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

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

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

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

26 "Tourist Promotion Agency (TPA)." An organization, agency or
27 corporation designated to be such by the board of commissioners
28 as of January 1, 2000, of the county in which the tax is
29 imposed. The TPA shall be duly established, designated and
30 recognized as the county's TPA in accordance with and pursuant

1 to the act of [April 28, 1961 (P.L.111, No.50), known as the
2 "Tourist Promotion Law."] July 4, 2008 (P.L.621, No.50), known
3 as the "Tourism Promotion Act."

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

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

12 Section 2. This act shall take effect ~~in 60 days~~ ←
13 IMMEDIATELY. ←