

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**No. **838** Session of  
2013

INTRODUCED BY ALLOWAY AND SOLOBAY, MAY 6, 2013

SENATOR WARD, COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
AS AMENDED, JUNE 27, 2013

## 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, providing for authorization of five percent hotel  
10 tax in certain counties of the fourth class.

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

13 Section 1. The act of August 9, 1955 (P.L.323, No.130),  
14 known as The County Code, is amended by adding a section to  
15 read:

16 Section 1773. Authorization of Five Per Centum Hotel Tax.--

17 (a) The county commissioners of any county of the fourth class  
18 having a population under the 2010 Federal decennial census in  
19 excess of 145,000 residents, but less than 209,999 residents,  
20 may impose a hotel tax not to exceed five per centum of the  
21 consideration received by each operator of a hotel within the  
22 county from each transaction of renting a room or rooms to

1 transients. The tax shall be collected by the operator from the  
2 patron of the room or rooms and paid over to the county as  
3 herein provided.

4 (b) The provisions of subsection (c) notwithstanding, county  
5 commissioners may by ordinance impose requirements for keeping  
6 of records, the filing of tax returns and the time and manner of  
7 collection and payment of tax. The county commissioners may also  
8 impose by ordinance penalties and interest for failure to comply  
9 with recordkeeping, filing, collection and payment requirements.

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

20 (d) The treasurer of each county that imposes the tax  
21 authorized under this section shall collect the tax and deposit  
22 the revenues received from the tax in a special fund established  
23 for that purpose. Subject to the deduction of the administrative  
24 fee authorized by subsection (h), the disposition of the  
25 revenues from the TPA hotel tax fund shall be as follows:

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

30 (2) Twenty-five per centum of all revenues received per

1 annum shall be distributed as follows:

2 (i) Fifty per centum shall be used by the county  
3 commissioners for the purposes of economic development, historic  
4 preservation and the arts. THE COUNTY COMMISSIONERS SHALL USE <--  
5 TEN PER CENTUM OF THE FUNDS RECEIVED UNDER THIS SUBCLAUSE FOR  
6 GRANTS TO MUNICIPALITIES THAT EACH HAVE AT LEAST 20,000  
7 RESIDENTS.

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

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

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

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

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

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

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

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

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

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

16 (i) Revenue collected from the fee imposed under subsection  
17 (h) shall be used for the following purposes:

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

20 (2) Defraying the costs of the review required under  
21 subsection (c).

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

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

29 "Hotel." A hotel, motel, inn, guest house or other structure  
30 which holds itself out by any means, including advertising,

1 license, registration with an innkeepers' group, convention  
2 listing association, travel publication or similar association  
3 or with a government agency, as being available to provide  
4 overnight lodging or use of facility space for consideration to  
5 persons seeking temporary accommodation; any place which  
6 advertises to the public at large or any segment thereof that it  
7 will provide beds, sanitary facilities or other space for a  
8 temporary period to members of the public at large; or any place  
9 recognized as a hostelry. The term does not include any portion  
10 of a facility that is devoted to persons who have an established  
11 permanent residence or a college or university student residence  
12 hall.

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

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

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

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

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

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

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

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

16 Section 2. This act shall take effect immediately.