

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILLNo. **1511** Session of
2017

INTRODUCED BY M. QUINN, CORR, BARBIN, DOWLING, W. KELLER,
MILLARD, PASHINSKI, SCHLOSSBERG, WARREN, D. COSTA, WATSON,
SOLOMON, CORBIN, HILL-EVANS AND SIMS, JUNE 7, 2017

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 22, 2018

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," in hotel occupancy tax, further providing for
11 definitions and for imposition of tax and establishing the
12 Tourism Promotion Fund.

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

15 Section 1. Sections 209(a) and 210 of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
17 amended to read:

18 Section 209. Definitions.--(a) For the purposes of this
19 part V only, the following words, terms and phrases shall have
20 the meaning ascribed to them in this subsection, except where
21 the context clearly indicates a different meaning:

22 [(1) "Hotel." A building or buildings in which the public

1 may, for a consideration, obtain sleeping accommodations. The
2 term "hotel" shall not include any charitable, educational or
3 religious institution summer camp for children, hospital or
4 nursing home.]

5 (1.1) "Accommodation fee." The amount by which the rent
6 exceeds the discount room charge, if any.

7 (1.2) "BOOKING AGENT." A PERSON OR ENTITY WHICH FACILITATES <--
8 OR COLLECTS PAYMENT FOR HOTEL ACCOMMODATIONS ON BEHALF OF OR FOR
9 AN OPERATOR. THE TERM "BOOKING AGENT" SHALL NOT INCLUDE A PERSON
10 WHO MERELY PUBLISHES ADVERTISEMENTS FOR ACCOMMODATIONS.

11 ~~(1.2)~~ (1.3) "Discount room charge." The amount charged by an <--
12 operator to an intermediary A BOOKING AGENT in connection with <--
13 the sale of an accommodation by the intermediary BOOKING AGENT. <--

14 ~~(1.3)~~ (1.4) "Hotel." A building or buildings in which the <--
15 public may, for a consideration, obtain sleeping accommodations. <--
16 The term "hotel" shall not include any charitable, educational
17 or religious institution summer camp for children, hospital or
18 nursing home.

19 ~~(1.4)~~ "Intermediary." A person that facilitates the booking <--
20 of hotel reservations. The term shall not include an operator or
21 a person that is paid a commission by an operator.

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

27 (3) "Occupancy." The use or possession or the right to the
28 use or possession by any person (other than a "permanent
29 resident,") of any room or rooms in a hotel for any purpose or
30 the right to the use or possession of the furnishings or to the

1 services and accommodations accompanying the use and possession
2 of the room or rooms.

3 (4) "Operator." Any person operating a hotel OR ACTING AS A <--
4 BOOKING AGENCY.

5 (5) "Permanent resident." Any occupant who has occupied or
6 has the right to occupancy of any room or rooms in a hotel for
7 at least thirty consecutive days.

8 (6) "Rent." The consideration received for occupancy valued
9 in money, whether received in money or otherwise, including all
10 receipts, cash, credits and property or services of any kind or
11 nature, [and also] ~~any amount charged by an intermediary to an~~ <--
12 ~~occupant and retained by an intermediary~~ ACCOMMODATION FEES and <--
13 any amount for which the occupant is liable for the occupancy
14 without any deduction therefrom whatsoever, INCLUDING ANY AMOUNT <--
15 CHARGED BY A BOOKING AGENT. The term "rent" shall not include a
16 gratuity.

17 * * *

18 Section 210. Imposition of Tax.--(a) There is hereby
19 imposed an excise tax of six per cent of the rent upon every
20 occupancy of a room or rooms in a hotel in this Commonwealth,
21 which tax shall be collected by the operator ~~or an intermediary~~ <--
22 from the occupant and paid over to the Commonwealth as herein
23 provided. IF A BOOKING AGENT, ACTING FOR AN OPERATOR, COLLECTS <--
24 PAYMENT FOR THE RENT, THE BOOKING AGENT MUST COLLECT AND REMIT
25 THE TAX.

26 ~~(b) (1) An intermediary shall be liable for the tax~~ <--
27 ~~required to be collected under this section and for remitting~~
28 ~~the tax to the Commonwealth.~~

29 ~~(2) An operator shall not be liable for tax owed regarding~~
30 an accommodation fee.

1 (c) ~~An intermediary~~ A BOOKING AGENT shall not be required to <--
2 separately disclose to an occupant the amount of the tax imposed
3 that relates to a discount room charge versus an accommodation
4 fee.

5 Section 2. The act is amended by adding a section to read:

6 Section 212. Tourism Promotion Fund.--(a) A restricted
7 revenue account is established within the Treasury Department to
8 be known as the Tourism Promotion Fund.

9 (b) ~~The tax collected by intermediaries under section 210~~ <--
10 shall be deposited into the fund and disbursed upon
11 appropriation for the purpose of promoting tourism in this
12 Commonwealth OF THE AMOUNT COLLECTED UNDER THIS ARTICLE, TEN <--
13 MILLION DOLLARS (\$10,000,000) SHALL BE TRANSFERRED ANNUALLY TO
14 THE TOURISM PROMOTION FUND.

15 (c) ~~The Department of Community and Economic Development~~ <--
16 DEPARTMENT shall promulgate guidelines, rules and regulations as <--
17 necessary to achieve the purpose of promoting tourism in this
18 Commonwealth.

19 (C.1) MONEY FROM THE FUND MAY NOT BE USED FOR THE PROMOTION <--
20 OR MARKETING OPERATIONS OF A TOURISM ENTITY OR FOR SPECIAL
21 EVENTS OR GRANTS UNTIL THIRTY DAYS AFTER THE PUBLICATION OF THE
22 GUIDELINES, RULES AND REGULATIONS UNDER SUBSECTION (C) IN THE
23 PENNSYLVANIA BULLETIN.

24 (C.2) THE FOLLOWING SHALL APPLY:

25 (1) NO MORE THAN FIFTY PER CENT OF THE FUNDS AVAILABLE FOR
26 DISBURSEMENT UNDER SUBSECTION (B) MAY BE DISTRIBUTED FOR THE
27 PURPOSES OF PROMOTION OR MARKETING OPERATIONS OF A TOURISM
28 ENTITY OR FOR SPECIAL EVENTS OR GRANTS.

29 (2) FUNDING FOR THE PROMOTION OR MARKETING OPERATIONS OF A
30 TOURISM ENTITY, SPECIAL EVENTS OR GRANTS SHALL REQUIRE A FIFTY

1 PER CENT CASH OR IN-KIND MATCH.

2 (3) A SINGLE RECIPIENT OF FUNDING UNDER SUBSECTION (C.2) (2)
3 MAY NOT BE AWARDED MORE THAN FIFTEEN PER CENT OF THE TOTAL FUNDS
4 AVAILABLE FOR DISBURSEMENT UNDER SUBSECTION (B). THIS PARAGRAPH
5 SHALL NOT APPLY TO CONTRACTS ENTERED INTO BY THE DEPARTMENT FOR
6 STATEWIDE TOURISM PROMOTION OR MARKETING.

7 (C.3) FUNDS AVAILABLE FOR DISBURSEMENT UNDER SUBSECTION (B)
8 MAY NOT BE USED FOR CAPITAL PROJECTS OR FOR THE DESIGN,
9 CONSTRUCTION, REHABILITATION, REPAIR, INSTALLATION OR PURCHASE
10 OF ANY BUILDING, STRUCTURE OR SIGN IN THIS COMMONWEALTH.

11 (d) As used in this section, the following words and phrases
12 shall have the meanings given to them in this subsection unless
13 the context clearly indicates otherwise:

14 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC <--
15 DEVELOPMENT OF THE COMMONWEALTH.

16 "Fund." The Tourism Promotion Fund established under
17 subsection (a).

18 "Promoting tourism." Activities and expenditures designed to
19 increase tourism including, but not limited to, the following:

20 (1) Advertising, publicizing or otherwise distributing
21 information for the purpose of attracting and welcoming
22 tourists.

23 (2) Developing strategies to expand tourism.

24 (3) ~~Funding operations of tourism promotion agencies and~~ <--
25 ~~regional attractions marketing agencies~~ THE PROMOTION OR <--
26 MARKETING OPERATIONS OF A TOURISM ENTITY.

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

29 "TOURISM ENTITY." A "TOURISM PROMOTION AGENCY" AS DEFINED IN <--
30 SECTION 2 OF THE ACT OF JULY 4, 2008 (P.L.621, NO.50), KNOWN AS

1 THE TOURISM PROMOTION ACT, DESTINATION MARKETING ORGANIZATION OR
2 REGIONAL ATTRACTIONS MARKETING AGENCY.

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