

## No. 1998-146

## AN ACT

## SB 1461

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," further providing for hotel room rentals; providing limits on revenues from reassessments; further providing for tax relief for longtime senior citizen property owners; and making an editorial change.

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

Section 1. Section 1970.2 of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, amended December 17, 1990 (P.L.728, No.182), is amended to read:

Section 1970.2. Hotel Room Rental.—(a) The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings ascribed to them in this section:

"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.

"Convention center or exhibition hall," a building or series of buildings not used for the retail sale of merchandise or part of any shopping center, mall or other retail center together with any land appurtenant thereto, a major function of which is to house meetings, exhibitions, shows, conventions, assemblies, convocations, and similar gatherings: Provided, That one of the aforesaid buildings shall contain a minimum of seventy-five thousand (75,000) gross square feet of exhibition space for shows and conventions.

"Cooperating political subdivision or agency of government," any city or public authority located in such county within whose boundaries a convention center or exhibition hall is planned or constructed which shares with the county any duties, obligations or privileges with respect to the convention center situated therein.

"Hotel," a hotel, motel, inn, guest house, or other building located within the taxing jurisdiction which holds itself out by any means including advertising, license, registration with any innkeeper's group, convention listing association, travel publication or similar association or with any 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; any place recognized as a hostelry: Provided, That portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition.

“Municipality,” a township, borough or a home rule municipality which was formerly a township or borough.

“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,” any 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 any hotel to the public for consideration.

“Operating deficit,” the excess of expenses over receipts from the operation and management of a convention center or exhibition hall.

“Patron,” any person who pays the consideration for the occupancy of a room or rooms in a hotel.

“Permanent resident,” any person who has occupied or has the right to occupancy of any room or rooms in a hotel as a patron or otherwise for a period exceeding thirty (30) consecutive days.

“Recognized tourist promotion agency,” the nonprofit corporation, organization, association or agency which is and has been engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties served by such agencies as that term is defined in the act of April 28, 1961 (P.L.111, No.50), known as the “Tourist Promotion Law,” and which particular nonprofit corporation, organization, association or agency heretofore has been recognized by the Department of [~~Commerce~~] *Community and Economic Development*, all in accordance with the terms of said “Tourist Promotion Law.”

“Regional tourist promotion activities,” services, activities, facilities and events which result in a significant number of nonresidents visiting a county of the second class for recreational, cultural or educational purposes.

“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 provided therein.

“Temporary,” a period of time not exceeding thirty (30) consecutive days.

“Transaction,” the activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

“Transient,” any individual who obtains accommodation in any hotel for himself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the operator of the facility a fee in consideration therefor.

(b) The county commissioners in each county of the second class are hereby authorized to impose an excise tax at five per centum (5%) on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients. The county commissioners in each county of the second class A are hereby authorized to impose an excise tax not to exceed three per centum (3%) on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the county as herein provided.

(b.1) The treasurer of each county of the second class electing to impose the tax authorized under this section is hereby directed to collect the tax and to deposit the revenues received from the tax in a special fund. The revenues shall be distributed by the county commissioners as follows:

(1) Two-fifths (2/5) of all revenues received by the county from the excise tax shall be distributed to a tourist promotion agency pursuant to section 2199.14.

(2) One-third (1/3) of the five per centum (5%) excise tax collected by hotels within a municipality wherein a convention center or exhibition hall is located (less the cost of collecting the tax) shall, at the request of such municipality, be returned to that municipality wherein such convention center or exhibition hall is located, for deposit in that municipality's special fund established solely for purposes of paying for promotional programs implemented by a nonprofit organization which are designed to stimulate and increase the volume of conventions and visitors within the municipality: Provided, however, That an audited report on the income and expenditures incurred by the municipality receiving funds from the excise tax on hotel room rentals shall be made annually to the board of county commissioners; And provided further, That the members of the board of directors or other governing body of the nonprofit organization utilized by the municipality to provide the aforementioned promotional programs be appointed by the governing body of the municipality.

***(2.1) A five per centum (5%) fee shall be paid to the county for collecting the tax.***

(3) All remaining revenues from the five per centum (5%) excise tax received by the county, [less a five per centum (5%) fee for collecting the tax] ***after paying the amounts set forth in clauses (1), (2) and (2.1).*** shall be used for operational and maintenance expenditures of the convention center or exhibition hall as provided in subsection (d) and for regional tourist promotion activities.

***(4) In the event that bonds are issued by the public authority to provide permanent financing or refinancing of the expansion of and capital improvements to the convention center/exhibition hall, the revenues received from the tax and deposited in the special fund shall not be distributed as aforesaid but shall be distributed by the county***

*commissioners in the order of priority as follows: first, to the payment of all amounts set forth in clause (2); second, to the trustee for such bonds in accordance with the provisions of the indenture pursuant to which the bonds are issued to be used for the payment of debt service on such bonds and to the payment of all amounts set forth in clause (2.1) in full or pro rata if the revenues are insufficient to make such payments in full, as the case may be; third, to the payment of all amounts set forth in clause (1); and fourth, as set forth in clause (3), provided that this clause shall not apply to bonds issued subsequent to such permanent financing for purposes of completion or subsequent expansions or capital improvements.*

(c) The treasurer of each county of the second class A electing to impose the tax authorized under this section is hereby directed to collect the tax and to deposit the revenues in a special fund established solely for purposes of travel and tourism promotion and advertising related to such promotion. The treasurer is hereby authorized to establish rules and regulations concerning the collection of the tax.

(d) In counties of the second class, expenditures from the fund established pursuant to subsection (b.1) shall be used for all purposes which a public authority may determine to be reasonably necessary to the support, operation and maintenance of a convention center or exhibition hall, including but not limited to the following:

- (1) advertising and publicizing tourist attractions in the area served by the agency;
- (2) promoting and otherwise encouraging the use of the facilities in the area served by the agency by the public as a whole;
- (3) promoting and attracting conventions, exhibitions and other functions to utilize facilities in the area served by the agency;
- (4) precompletion advertising and publicizing of any convention center or exhibition hall;
- (5) promoting and attracting conventions, exhibitions and other functions to utilize the convention center or exhibition hall;
- (6) promoting and otherwise encouraging the use of the premises by the public as a whole, or any segment thereof;
- (7) operating, furnishing and otherwise maintaining and equipping the premises and realty appurtenant thereto;
- (8) furnishing and equipping the building and grounds.

It is the intention of this section that the receipts from any tax imposed pursuant to the provisions of this act *after payment of the distributions under subsection (b.1)(1), (2), (2.1), (3) and (4)* be used in counties of the second class to offset the entire operating deficit, if any, of any convention center or exhibition hall including, equally, shares of any cooperating political subdivision or agency of government incurred pursuant to any agreement presently existing or executed hereafter. The operating deficit shall be

determined by any public authority which is the designated operating agency of any convention center or exhibition hall.

(d.1) In counties of the second class A, expenditures from the fund established pursuant to subsection (c) shall be annually appropriated by the county commissioners for tourist promotion activities, to be executed by the designated tourist promotion agency for:

(1) marketing the area served by the agency as a leisure travel destination;

(2) marketing the area served by the agency as a convention and business travel destination;

(3) marketing the area served by the agency to the public as a whole for use of its tourist and convention facilities;

(4) using all appropriate marketing tools to accomplish these purposes, including advertising, publicity, publications, direct marketing, direct sales, participation in travel trade shows, etc.

The county commissioners may deduct from the funds collected any direct or indirect costs attributable to the collection of the tax.

(e) (1) The provisions of this section relating to counties of the second class shall remain in force from year to year. Revenues in excess of amounts needed *to pay the distributions under subsection (b.1)(1), (2), (2.1), (3) and (4) and* to offset operating deficits *under subsections (b.1)(3) and (d)* shall be determined by the public authority and may be accumulated, and any revenues may be used to provide part or all of any annual payment to be paid by a county or a political subdivision under any agreement with any public authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," which has been designated as the operating agency for a convention center or exhibition hall [**in support of bonds issued by the public authority;**] or to effect necessary expansion or further capital improvements, within the discretion of the cooperating political subdivisions and the public authority.

(2) The provisions of this section relating to counties of the second class A shall remain in force and effect for three (3) years from the date of this reenactment and may be continued thereafter by ordinance or resolution of the county commissioners of the respective counties.

(f) Each tax year for any tax imposed hereunder shall run concurrently with the calendar year.

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

***Section 1980.2. Limits on Counties of the Second Class.—Notwithstanding any provisions of the act of June 21, 1939 (P.L.626, No.294), referred to as the Second Class County Assessment Law, to the contrary, when a county of the second class makes its annual reassessment at values based upon an established predetermined ratio as required by law or when a county of the second class changes its established predetermined ratio, each political subdivision which hereafter***

*levies its real estate taxes on that revised assessment or valuation shall for that year reduce its tax rate, if necessary, for the purpose of having the total amount of property tax revenue received exclusively as a result of the reassessment or change in ratio not to exceed one hundred five per cent of the total amount of property tax revenue received in the preceding year, notwithstanding the increased valuations of properties under the annual reassessment system. For the purpose of determining the total amount of revenue received exclusively as a result of the reassessment or change in ratio for the year, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing structures shall not be considered.*

Section 3. Section 3171-B(a)(4) of the act, added December 22, 1993 (P.L.529, No.77), is amended to read:

Section 3171-B. Tax Relief.—(a) \* \* \*

(4) The county and the city shall utilize all or a portion of revenues remaining from disbursements received pursuant to section 3157-B(b) after reducing taxes as provided by clauses (1) and (2) for the implementation of *either or both of the following:*

(i) programs under the act of December 13, 1988 (P.L.1190, No.146), known as the “First and Second Class County Property Tax Relief [Act,]” *Act*”; or

(ii) *a program for property tax rebate or rent rebate in lieu of property taxes modeled by the county or city after the act of March 11, 1971 (P.L.104, No.3), known as the “Senior Citizens Rebate and Assistance Act,”* for longtime senior citizen owner occupants of personal residences. Property eligible for tax relief under this clause shall be limited to a primary personal residence owned by a single person age [65] 62 or older or by married persons if either spouse is [65] 62 years of age or older. Tax relief provided pursuant to this clause shall be limited to persons [eligible for property tax rebates] *whose income as defined* under the act of March 11, 1971 (P.L.104, No.3), known as the “Senior Citizens Rebate and Assistance [Act.]” *Act,* *does not exceed twenty-five thousand dollars (\$25,000).*

Section 4. This act shall take effect January 1, 1999.

APPROVED—The 21st day of December, A.D. 1998.

THOMAS J. RIDGE