

No. 2005-12

AN ACT

HB 157

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," further providing for the authorization of excise tax, for the authorization of the hotel tax and for hotel room rental tax; providing penalties for failure to timely remit hotel taxes and excise taxes imposed in certain counties of the third class to the Commonwealth; providing for a hotel room rental tax in certain third class counties; and repealing the Hotel Room Rental Tax Act.

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

Section 1. Section 1770.2(c) of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended December 22, 2000 (P.L.1019, No.142), is amended and the section is amended by adding a subsection to read:

Section 1770.2. Authorization of Excise Tax.—* * *

(c) 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. After deducting from the fund any direct or indirect costs attributable to collection of the tax, the county shall distribute to the recognized tourist promotion agency designated to act within the county all revenues received from the tax not later than sixty days after receipt of the tax revenues. [Two-thirds of the revenues from the special fund shall be used by the recognized tourist promotion agency to directly fund countywide tourist promotion. One-third of the revenues from the special fund shall be used by the recognized tourist promotion agency for the purposes of tourism, convention promotion and tourism development.] *The revenues from the special fund shall be used by the recognized tourist promotion agency for any or all of the following purposes:*

- (1) Convention promotion.*
- (2) Marketing the area served by the agency as a leisure travel destination.*
- (3) Marketing the area served by the agency as a business travel destination.*
- (4) Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, direct sales and participation in industry trade shows.*

(5) Projects or programs that are directly and substantially related to tourism within the county, augment and do not unduly compete with private sector tourism efforts and improve and expand the county as a destination market.

(6) Any other tourism marketing or promotion program deemed necessary by the recognized tourist promotion agency.

(e.1) Notwithstanding any other provision of subsection (b) or any other provision of law to the contrary, in counties of the third class having a population under the 1990 Federal Decennial Census in excess of 415,000 residents but less than 500,000 residents, a penalty of one and one-half per centum per month shall be imposed for failure to timely remit the tax authorized by this section. In addition to other remedies available for collection of debts, the county may also file a lien upon the hotel in the name of and for the use of the county as provided by law for municipal claims.

Section 2. Sections 1770.4 and 1770.5 of the act are amended by adding subsections to read:

Section 1770.4. Authorization of Hotel Tax.—***

(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.

Section 1770.5. Authorization of Three Per Centum Hotel Tax.—***

(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.

Section 3. Subsection (c) and the definition of “permanent resident” in subsection (f) of section 1770.6 of the act, added December 22, 2000 (P.L.1019, No.142), are amended and the section is amended by adding a subsection to read:

Section 1770.6. Authorization of Hotel Tax.—***

(c) 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. Subsequent to the deduction for administrative costs established in subsection (e), the county shall distribute to the recognized tourist promotion agency all revenues received from the tax not later than sixty days after receipt of the tax revenues. The revenues from the special fund shall be used by the recognized tourist promotion agency for [the purposes of tourism, convention

promotion and tourism development.] *any or all of the following purposes:*

(1) Convention promotion.

(2) Marketing the area served by the agency as a leisure travel destination.

(3) Marketing the area served by the agency as a business travel destination.

(4) Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, direct sales and participation in industry trade shows.

(5) Projects or programs that are directly and substantially related to tourism within the county, augment and do not unduly compete with private sector tourism efforts and improve and expand the county as a destination market.

(6) Any other tourism marketing or promotion program deemed necessary by the recognized tourist promotion agency.

*** * ***

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

*** * ***

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

*** * ***

“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 [sixty] *thirty* consecutive days.

*** * ***

Section 4. Section 1770.7 of the act is amended by adding a subsection to read:

Section 1770.7. Authorization of Three Per Centum Hotel Tax.—*** * ***

(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.

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

Section 1770.8. Hotel Room Rental Tax in Certain Third Class Counties.—*(a) A county may, by ordinance, impose a tax which shall be known as the hotel room rental tax on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate temporary residents. The tax shall be collected by the operator from the patron of the room and paid over to the county where the hotel is located as provided under this section.*

(b) The tax imposed under subsection (a) shall be equal to four per centum of the consideration received from each transaction of renting a room or rooms to accommodate temporary, not permanent, residents.

(c) The tax shall be collected by the operator from the patron and paid over to the county where the hotel is located. The county executive of each county is hereby authorized to establish rules and regulations governing the collection of the tax, which collection shall not occur more often than monthly and not less than quarterly.

(d) Money received under subsection (c) and interest accrued shall be distributed by the fiscal officer of each county as follows:

(1) Each county shall within ten days of receipt transmit sixty-eight and three-quarters per centum of the money collected in that county to the regional tourist promotion agency which serves more than one county and which is designated by the governing body of the county to be eligible for grants from the Department of Community and Economic Development pursuant to the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law."

(2) Each county shall retain eighteen and three-quarters per centum of the money collected in that county for the further development of tourism facilities and for community development initiatives within that county that enhance regional tourism.

(3) Each county shall retain twelve and one-half per centum of the money collected in that county for the further development of facilities and for marketing purposes within that county to enhance regional tourism.

(e) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"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 a temporary period.

"County." Any county which is, on June 22, 2000, a county of the third class having a population under the 1990 Federal Decennial Census in excess of 290,000 residents but less than 295,000 residents or a county of the third class having a population under the 1990 Federal Decennial Census in excess of 245,000 residents but less than 250,000 residents.

"Hotel." A hotel, motel, inn, guesthouse 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 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 or any private campground or any cabins, public campgrounds or other facilities located on State land.

“Joint planning commissions.” A commission established by ordinance or membership of two or more municipalities to encourage planning for future development and to coordinate planning with neighboring municipalities, counties and other government agencies in accordance with Article XI of the act of July 31, 1968 (P.L.805, No.247), known as the “Pennsylvania Municipalities Planning Code.”

“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 a building to the public for consideration.

“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 occupy a room or rooms in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

“Room.” A space in a building set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodations provided.

“Temporary resident.” Any person who has occupied or has the right to occupy a room or rooms in a hotel as a patron or otherwise for a period of time not exceeding thirty 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 expressed or implied contract.

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

Section 6. Sections 2399.23 and 2399.72 of the act are amended by adding subsections to read:

Section 2399.23. Hotel Room Rental Tax.—* * *

(h.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.

* * *

Section 2399.72. Hotel Room Rental Tax.—* * *

(h.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.

(h.2) Notwithstanding any provision of law to the contrary, in counties of the third class having a population under the 1990 Federal Decennial Census in excess of 415,000 residents but less than 500,000 residents, a penalty of one and one-half per centum per month shall be imposed for failure to timely remit the tax authorized by this section. In addition to other remedies available for collection of debts, the county may also file a lien upon the hotel in the name of and for the use of the county as provided by law for municipal claims.

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Section 7. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of section 1770.8 of the act.

(2) The act of June 22, 2000 (P.L.307, No.28), known as the Hotel Room Rental Tax Act, is repealed.

Section 8. This act shall take effect as follows:

(1) The amendment of the definition of "permanent resident" in section 1770.6(f) of the act shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

APPROVED—The 5th day of July, A.D. 2005.

EDWARD G. RENDELL