

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 794** Session of
2015

INTRODUCED BY GILLESPIE, SCHREIBER, SAYLOR, MOUL, McNEILL,
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DIAMOND, KLUNK, SCHLOSSBERG, D. COSTA, ROZZI, COHEN, RADER,
GROVE, SONNEY, REGAN, IRVIN, PAYNE, TALLMAN, HARHAI, JAMES,
MAHONEY, KIRKLAND AND DUSH, MARCH 13, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 17, 2015

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, repealing provisions relating to authorization of
10 excise tax and authorization of hotel tax; and providing for
11 hotel room rental tax in third through eighth class counties
12 and for certification of recognized tourist promotion
13 agencies.

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

16 Section 1. Sections 1770.2 and 1770.6 of the act of August
17 9, 1955 (P.L.323, No.130), known as The County Code, are
18 repealed:

19 [Section 1770.2. Authorization of Excise Tax.--(a) The
20 county commissioners of any county which has a recognized
21 tourist promotion agency designated to act within the county may

1 impose an excise tax not to exceed three per centum of the
2 consideration received by each operator of a hotel within the
3 county from each transaction of renting a room or rooms to
4 transients. The tax shall be collected by the operator from the
5 patron of the room or rooms and paid over to the county as
6 herein provided.

7 (b) The county commissioners may by ordinance impose
8 requirements for keeping of records, the filing of tax returns
9 and the time and manner of collection and payment of tax. The
10 county commissioners may also impose by ordinance penalties and
11 interest for failure to comply with recordkeeping, filing,
12 collection and payment requirements.

13 (c) The treasurer of each county electing to impose the tax
14 authorized under this section shall collect the tax and deposit
15 the revenues received from the tax in a special fund established
16 for that purpose. After deducting from the fund any direct or
17 indirect costs attributable to collection of the tax, the county
18 shall distribute to the recognized tourist promotion agency
19 designated to act within the county all revenues received from
20 the tax not later than sixty days after receipt of the tax
21 revenues. The revenues from the special fund shall be used by
22 the recognized tourist promotion agency for any or all of the
23 following purposes:

24 (1) Convention promotion.

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

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

29 (4) Using all appropriate marketing tools to accomplish
30 these purposes, including, but not limited to, advertising,

1 publicity, publications, direct marketing, direct sales and
2 participation in industry trade shows.

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

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

9 (d) The tax year for a tax imposed under this section shall
10 run concurrently with the calendar year.

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

16 (e.1) Notwithstanding any other provision of subsection (b)
17 or any other provision of law to the contrary, in counties of
18 the third class having a population under the 1990 Federal
19 Decennial Census in excess of 415,000 residents but less than
20 500,000 residents, a penalty of one and one-half per centum per
21 month shall be imposed for failure to timely remit the tax
22 authorized by this section. In addition to other remedies
23 available for collection of debts, the county may also file a
24 lien upon the hotel in the name of and for the use of the county
25 as provided by law for municipal claims.

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

28 "Consideration." Receipts, fees, charges, rentals, leases,
29 cash, credits, property of any kind or nature, or other payment
30 received by operators in exchange for or in consideration of the

1 use or occupancy by a transient of a room or rooms in a hotel
2 for any temporary period.

3 "County." Any county which is on the effective date of this
4 act a county of the third class having a population under the
5 1990 Federal Decennial Census in excess of 337,000 residents,
6 but less than 341,000 residents, or a county of the third class
7 having a population under the 1990 Federal Decennial Census in
8 excess of 374,000 residents, but less than 380,000 residents, or
9 a county of the third class having a population under the 1990
10 Federal Decennial Census in excess of 415,000 residents, but
11 less than 500,000 residents, or a county of the fourth class
12 having a population under the 1990 Federal Decennial Census in
13 excess of 159,000 residents, but less than 175,000 residents, or
14 a county of the fifth class having a population under the 1990
15 Federal Decennial Census in excess of 123,000 residents, or a
16 county of the fifth class having a population under the 1990
17 Federal Decennial Census in excess of 117,000 residents, but
18 less than 121,050 residents, or a county of the sixth class
19 having a population under the 1990 Federal Decennial Census in
20 excess of 87,000 residents.

21 "Hotel." A hotel, motel, inn, guest house or other structure
22 which holds itself out by any means, including advertising,
23 license, registration with an innkeepers' group, convention
24 listing association, travel publication or similar association
25 or with a government agency, as being available to provide
26 overnight lodging or use of facility space for consideration to
27 persons seeking temporary accommodation; any place which
28 advertises to the public at large or any segment thereof that it
29 will provide beds, sanitary facilities or other space for a
30 temporary period to members of the public at large; or any place

1 recognized as a hostelry. The term does not include any portion
2 of a facility that is devoted to persons who have an established
3 permanent residence or a college or university student residence
4 hall or any private campground, or any cabins, public
5 campgrounds or other facilities located on State land.

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

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

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

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

21 "Recognized tourist promotion agency." The nonprofit
22 corporation, organization, association or agency which is
23 engaged in planning and promoting programs designed to stimulate
24 and increase the volume of tourist, visitor and vacation
25 business within counties served by the agency as that term is
26 defined in the act of April 28, 1961 (P.L.111, No.50), known as
27 the "Tourist Promotion Law."

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

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

9 Section 1770.6. Authorization of Hotel Tax.--(a) Except as
10 provided for in section 1770.7, the county commissioners of any
11 county may impose an excise tax on the consideration received by
12 each operator of a hotel, as defined by this section, from each
13 transaction of renting a room or rooms to accommodate
14 transients. If levied, the tax shall be collected by the
15 operator from the patron of the room and paid over to the county
16 and shall be known as the hotel room rental tax.

17 (b) The rate of the tax imposed under this section shall not
18 exceed three per centum.

19 (c) The treasurer of each county electing to impose the tax
20 authorized under this section shall collect the tax and deposit
21 the revenues received from the tax in a special fund established
22 for that purpose. Subsequent to the deduction for administrative
23 costs established in subsection (e), the county shall distribute
24 to the recognized tourist promotion agency all revenues received
25 from the tax not later than sixty days after receipt of the tax
26 revenues. The revenues from the special fund shall be used by
27 the recognized tourist promotion agency for any or all of the
28 following purposes:

29 (1) Convention promotion.

30 (2) Marketing the area served by the agency as a leisure

1 travel destination.

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

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

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

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

14 (d) Each tax year for any tax imposed hereunder shall run
15 concurrently with the county's fiscal year.

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

21 (e) For the purposes of defraying the costs associated with
22 the collection of the tax imposed hereunder and otherwise
23 performing its obligations under this section, the county is
24 hereby authorized to deduct and retain an administrative fee
25 from the taxes collected hereunder. Such administrative fee
26 shall be established by the county but shall not exceed in any
27 tax year the lesser of:

28 (1) two per centum of all taxes collected hereunder; or

29 (2) forty thousand dollars (\$40,000), which amount shall be
30 adjusted biannually, beginning two years after the date of

1 enactment, by the percentage growth in the Consumer Price Index
2 for All Urban Consumers as determined by the United States
3 Department of Labor.

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

7 "Bed and breakfast" or "homestead." A public accommodation
8 consisting of a private residence, which contains ten or fewer
9 bedrooms, used for providing overnight accommodations to the
10 public and in which breakfast is the only meal served and is
11 included in the charge for the room.

12 "Consideration." Receipts, fees, charges, rentals, leases,
13 cash, credits, property of any kind or nature or other payment
14 received by operators in exchange for or in consideration of the
15 use or occupancy by a transient of a room or rooms in a hotel
16 for any temporary period.

17 "County." Any county of the third class through the eighth
18 class which on the effective date of this section does not have
19 the authority to levy a hotel occupancy or room rental tax.

20 "Hotel." A hotel, motel, bed and breakfast, homestead, inn,
21 guest house or other structure which holds itself out by any
22 means, including advertising, license, registration with an
23 innkeepers' group, convention listing association, travel
24 publication or similar association or with a government agency,
25 as being available to provide overnight lodging or use of
26 facility space for consideration to persons seeking temporary
27 accommodation; any place which advertises to the public at large
28 or any segment thereof that it will provide beds, sanitary
29 facilities or other space for a temporary period to members of
30 the public at large; or any place recognized as a hostelry. The

1 term does not include any portion of a facility that is devoted
2 to persons who have an established permanent residence or a
3 college or university student residence hall or any private
4 campground or any cabins, public campgrounds or other facilities
5 located on State land.

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

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

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

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

21 "Recognized tourist promotion agency." The nonprofit
22 corporation, organization, association or agency which is
23 engaged in planning and promoting programs designed to stimulate
24 and increase the volume of tourist, visitor and vacation
25 business within counties served by the agency as that term is
26 defined in the act of April 28, 1961 (P.L.111, No.50), known as
27 the "Tourist Promotion Law."

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

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

9 "Treasurer." The elected treasurer of the county or, if
10 there is no elected treasurer of the county, such other official
11 or agent of the county as may be designated by the county to
12 collect and account for the tax authorized by this section.]

13 Section 2. The act is amended by adding sections to read:

14 Section 1770.10. Hotel Room Rental Tax in Third through
15 Eighth Class Counties.--(a) A county may, by ordinance, impose
16 a tax which shall be known as the hotel room rental tax on the
17 consideration received by each operator of a hotel within the
18 county from each transaction of renting a room or rooms to
19 accommodate transients. The tax shall be collected by the
20 operator from the patron of the room and paid over to the county
21 where the hotel is located as provided under this section.

22 (b) The rate of tax imposed under this section shall not
23 exceed five per centum.

24 (c) The treasurer of each county electing to impose the tax
25 authorized under this section shall collect the tax and deposit
26 the revenues received from the tax in a special fund established
27 for that purpose. Subsequent to the deduction for administrative
28 costs established in subsection (g), the county shall distribute
29 to the recognized tourist promotion agency all revenues received
30 from the tax not later than sixty days after receipt of the tax

1 revenues.

2 (d) The revenues from the special fund shall be used by the
3 recognized tourist promotion agency for any of the following
4 purposes:

5 (1) Marketing the area served by the agency as a leisure
6 travel destination.

7 (2) Marketing the area served by the agency as a business,
8 convention or meeting travel destination.

9 (3) Using all appropriate marketing tools to accomplish
10 these purposes, including, but not limited to, advertising,
11 publicity, publications, direct marketing, sales, technology and
12 participation in industry trade shows that attract tourists to
13 the area served by the agency.

14 (4) Programs or grants that are directly and substantially
15 related to tourism within the county, augment and do not compete
16 with private sector tourism efforts and improve and expand the
17 county as a destination market as deemed necessary by the
18 recognized tourist promotion agency.

19 (5) Any other tourism marketing or promotion program or
20 project that does not compete with private sector tourism
21 efforts as deemed necessary by the recognized tourist promotion
22 agency.

23 (e) Each taxable year for any tax imposed under this section
24 shall run concurrently with the county's fiscal year.

25 (f) An audited report or financial statement, as determined
26 by the county in consultation with the recognized tourist
27 promotion agency, on the income and expenditures incurred by a
28 recognized tourist promotion agency receiving any revenues from
29 the tax authorized under this section shall be submitted
30 annually by the recognized tourist promotion agency to the

1 county commissioners.

2 (g) For the purposes of defraying the costs associated with
3 the collection of the tax imposed under this section and
4 otherwise performing its obligations under this section, the
5 county may deduct and retain an administrative fee from the
6 taxes collected under this section. The administrative fee shall
7 be established by the county but shall not exceed five per
8 centum in any taxable year.

9 (h) A penalty of one and one-half per centum per month shall
10 be imposed for failure to timely collect and remit the tax
11 authorized by this section. In addition to other remedies
12 available for collection of debts, the county may file a lien
13 upon the hotel in the name of the county and for the use of the
14 county as provided by law.

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

18 "Bed and breakfast" or "homestead." A public accommodation
19 consisting of a private residence, which contains ten or fewer
20 bedrooms, used for providing overnight accommodations to the
21 public and in which breakfast is the only meal served and is
22 included in the charge for the room.

23 "Cabin." A permanent structure with beds located on a
24 campground on State land or private property that is available
25 to provide overnight lodging for consideration to persons
26 seeking temporary accommodations. THE TERM DOES NOT INCLUDE
27 YURTS OR WALLED TENTS.

28 "Consideration." Receipts, fees, charges, rentals, leases,
29 cash, credits, property of any kind or nature or other payment
30 received by operators in exchange for or in consideration of the

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1 use or occupancy by a transient of a room or rooms in a hotel
2 for a temporary period.

3 "County." Any county of the third through eighth class that
4 was authorized to levy a hotel occupancy or room rental tax
5 under the former section 1770.2 or 1770.6.

6 "Hotel." A hotel, motel, inn, guesthouse, rooming house, bed
7 and breakfast, homestead or other structure which holds itself
8 out by any means, including advertising, license, registration
9 with an innkeepers' group, convention listing association,
10 travel publication or similar association or with a government
11 agency, as being available to provide overnight lodging for
12 consideration to persons seeking temporary accommodation; any
13 place which advertises to the public at large or any segment
14 thereof that it will provide beds, sanitary facilities or other
15 space for a temporary period to members of the public at large;
16 any place recognized as a hostelry; or any cabins on campgrounds
17 located on State land or private property. The term does not
18 include any charitable institution, or portion of a facility
19 that is devoted to persons who have an established permanent
20 residence or a college or university student residence hall
21 currently occupied by students enrolled in a degree program, an
22 educational or religious institution summer camp for children,
23 hospital, nursing home or part of a campground that is not a
24 cabin.

25 "Marketing." An action by a recognized tourism promotion
26 agency that includes, but is not limited to, promoting and
27 encouraging visitors to visit a specific county, counties or
28 geographic region.

29 "Occupancy." The use or possession or the right to the use
30 or possession by any person other than a permanent resident of

1 any room in a hotel for any purpose or the right to the use or
2 possession of the furnishings or to the services accompanying
3 the use and possession of the room.

4 "Operator." Any individual, partnership, nonprofit or
5 profit-making association or corporation or other person or
6 group of persons who maintain, operate, manage, own, have
7 custody of or otherwise possess the right to rent or lease
8 overnight accommodations in a building to the public for
9 consideration.

10 "Patron." Any person who pays the consideration for the
11 occupancy of a room or rooms in a hotel.

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

15 "Recognized tourist promotion agency." The nonprofit
16 corporation, organization, association or agency which is
17 engaged in planning and promoting programs designed to stimulate
18 and increase the volume of tourist, visitor and vacation
19 business within a county and certified by the county as of the
20 effective date of this subsection or under section 1770.11.

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

24 "Transaction." The activity involving the obtaining by a
25 transient or patron of the use or occupancy of a hotel room from
26 which consideration emanates to the operator under an expressed
27 or implied contract.

28 "Transient." An individual who obtains accommodation in a
29 hotel by means of registering at the facility for the temporary
30 occupancy of a room for the personal use of the individual by

1 paying a fee to the operator.

2 Section 1770.11. Certification of Recognized Tourist
3 Promotion Agencies.--(a) A county may certify a nonprofit
4 corporation, organization, association or agency to serve as the
5 county's recognized tourist promotion agency. The county may not
6 have more than one recognized tourist promotion agency.

7 (b) (1) A county must certify a recognized tourist
8 promotion agency under subsection (a) by proper resolution of
9 the governing body of the county, concurred in by resolution of
10 the governing bodies of cities, boroughs, towns or townships
11 within the county which have an aggregate of more than fifty per
12 centum of the total population of the county as determined by
13 the most recently completed Federal decennial census.

14 (2) A recognized tourist promotion agency shall operate
15 until that agency has dissolved as an entity, withdrawn its
16 certification or has been decertified by the county under
17 subsection (c).

18 (c) (1) Notwithstanding any other provision of law, a
19 county may decertify a recognized tourist promotion agency by
20 proper resolution of the governing body of a county, concurred
21 in by resolution of the governing bodies of cities, boroughs,
22 towns or townships within the county which have an aggregate of
23 more than sixty-five per centum of the total population of the
24 county as determined by the most recently completed Federal
25 decennial census.

26 (2) The county shall hold at least one public hearing on
27 decertification no less than seven days before a meeting to
28 adopt a resolution under this subsection.

29 (3) This subsection shall apply to recognized tourist
30 promotion agencies, regardless of the date on which they were

1 recognized under the act of July 4, 2008 (P.L.621, No.50), known
2 as the "Tourism Promotion Act," or certified by the county under
3 this section.

4 Section 3. Nothing in this act shall be construed to require
5 a county that has imposed a tax under the former section 1770.2
6 or 1770.6 OF THE ACT to enact a new ordinance to impose the tax <--
7 under section 1770.10 OF THE ACT if all of the following apply: <--

8 (1) The tax rate in the ordinance imposing the tax under
9 the former section 1770.2 or 1770.6 OF THE ACT has not <--
10 changed.

11 (2) The ordinance imposing the tax under the former
12 section 1770.2 or 1770.6 OF THE ACT is otherwise consistent <--
13 with section 1770.10 OF THE ACT. <--

14 Section 4. This act shall take effect immediately.