

No. 2007-72

AN ACT

HB 1877

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 authorization of hotel tax.

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

Section 1. Section 1770.5 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) and July 5, 2005 (P.L.38, No.12), is amended to read:

Section 1770.5. Authorization of [Three] *Five* Per Centum Hotel Tax.—(a) The county commissioners of any county of the third class having a population under the 1990 Federal Decennial Census in excess of 237,000 residents, but less than 240,000 residents, may impose a hotel tax not to exceed [three] *five* per centum of the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to transients. The tax shall be collected by the operator from the patron of the room or rooms and paid over to the county as herein provided.

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

(c) The county commissioners of each county shall designate the entity or agency responsible to collect and to enforce the collection of the tax on their behalf. All revenues received from the tax shall be deposited into a special fund, which is to be established by the county's treasurer. The disposition of the revenues from the special fund attributable to the levy of the first two per centum of the tax shall be as follows:

(1) twenty per centum of all revenues received per annum shall be distributed by the treasurer to a city of the third class in the county of the third class imposing the tax for the appropriate and reasonable marketing and promotional expenses of promoting tourism in the city of a third class and the costs associated with the renovation, rehabilitation, extension, furnishing, equipping, substantial repair or construction of a tourism-related facility located within the city of the third class, including for payment of the debt service on bonds issued for such projects;

(2) ten per centum of all revenues received per annum shall be distributed by the treasurer to the county commissioners who may accept the funds which may be used for tourism and regional promotion purposes to be determined by the county commissioners, or, if the county commissioners elect not to accept the funds, the funds shall be distributed by the treasurer to the TPA for the appropriate and reasonable marketing and promotional expenses of the TPA in promoting tourism in the county of the third class imposing the tax, excluding promotion of a city of the third class receiving revenues under clause (1); and

(3) seventy per centum of all revenue received per annum shall be distributed by the treasurer to qualified authorities located within the county of the third class imposing the tax for payment of the debt service on bonds issued for the construction of the county regional sports facility having a seating capacity of ten thousand to fourteen thousand seats, which is owned, in whole or in part, or leased by the applicable authority, and which is located within the county of the third class imposing the tax. The following are qualified authorities for purposes of this clause:

(i) an authority incorporated pursuant to the *former* act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945";

(ii) an industrial or commercial development authority incorporated pursuant to the act of August 23, 1967 (P.L.251, No.102), known as the "Economic Development Financing Law"; and

(iii) a redevelopment authority incorporated pursuant to the act of May 24, 1945 (P.L.991, No.385), known as the "Urban Redevelopment Law."

(c.1) The disposition of the revenues from the special fund attributable to the levy of the third per centum of the tax, if levied, shall be distributed at the discretion of the county commissioners and used solely for tourism and regional promotion purposes.

(c.2) The disposition of the revenues from the special fund attributable to the levy of the remaining two per centum of the tax shall be distributed by the treasurer as follows:

(1) fifty per centum shall be distributed to the TPA for the appropriate and reasonable marketing and promotional expenses for promoting tourism in the county imposing the tax; and

(2) fifty per centum shall be distributed as follows:

(i) Seventy-five per centum to an authority incorporated pursuant to the former "Municipality Authorities Act of 1945" located within the county of the third class currently imposing a tax for payment of the debt service on bonds issued for the construction of the county regional sports facility having a seating capacity of ten thousand to fourteen thousand seats, which is owned, in whole or in part, or leased by the applicable authority, and which is located within the county of the third class imposing the tax. Such authority shall use the tax distribution identified in this section for the improvement, support, rehabilitation, revitalization, construction, fit-out and reconstruction of one or more tourism or tourism

infrastructure-related facilities, including, but not limited to, the payment of debt service on bonds related thereto.

(ii) Twenty-five per centum shall be distributed to the TPA for the appropriate and reasonable marketing and promotional expenses of promoting tourism in a city of the third class located within the county of the third class imposing the tax, and the same shall be used in accordance with a plan approved by the TPA.

(d) The treasurer of each county electing to impose the tax authorized under this section shall collect the tax from the entity or agency designated by the county commissioners to collect and to enforce the collection of the tax and shall deposit the revenues received from the tax in a special fund established for that purpose.

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

(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.

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

“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.

“Debt service on bonds.” Any cost related to the issuance, refinancing, refunding or payment or any other costs associated with the issuance and maintenance of bonds or notes by an authority or a city of the third class.

“Hotel.” A hotel, motel, inn, guest house 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 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; 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.

“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.” An individual, partnership, nonprofit or profit-making association or corporation, or other person or group of persons who maintains, operates, manages, owns, has custody of or otherwise possesses

the right to rent or lease overnight accommodations in a hotel to the public for consideration.

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

“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 thirty consecutive days.

“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 in a room or group of rooms.

“Tourist Promotion Agency (TPA).” An organization, agency or corporation designated to be such by the board of commissioners of the county in which the tax is imposed. The TPA shall be duly established, designated and recognized as the county’s TPA in accordance with and pursuant to the act of April 28, 1961 (P.L.111, No.50), known as the “Tourist Promotion Law.”

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

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

Section 2. This act shall take effect in 60 days.

APPROVED—The 18th day of December, A.D. 2007.

EDWARD G. RENDELL