

## No. 1982-252

## AN ACT

## SB 333

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 the hotel room rental tax; providing for its use; authorizing appropriations from the excise tax on hotel rooms for tourist promotion agencies.

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

Section 1. Section 1970.2, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," added December 16, 1977 (P.L.323, No.94), 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, **[the main]** 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 all in accordance with the terms of said “Tourist Promotion Law.”*

*“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 [not to exceed one per centum (1%)] at 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.

(c) The treasurer of each county 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 established solely for purposes of a convention center or exhibition hall. *The revenues shall be distributed as follows:*

*(1) One-third (1/3) 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 three per centum (3%) 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.*

*(3) All remaining revenues from the three per centum (3%) excise tax received by the county shall be used exclusively for operational and maintenance expenditures of the convention center or exhibition hall as provided in subsection (d).*

The treasurer is hereby authorized to establish rules and regulations concerning the collection of the tax.

(d) Expenditures from the fund established pursuant to subsection (c) 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) precompletion advertising and publicizing of any convention center or exhibition hall;

(2) promoting and attracting conventions, exhibitions and other functions to utilize the convention center or exhibition hall;

(3) promoting and otherwise encouraging the use of the premises by the public as a whole, or any segment thereof;

(4) operating, furnishing and otherwise maintaining and equipping the premises and realty appurtenant thereto;

(5) 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 be used 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.

(e) The provisions of this section shall remain in force from year to year [until December 31, 1983, at which time such provisions shall termi-

nate without further action on the part of the county commissioners]. Revenues in excess of amounts needed to offset operating deficits 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.

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

Section 2. Section 2199.14 of the act, added July 20, 1968 (P.L.432, No.203), is amended to read:

Section 2199.14. Appropriations to Tourist Promotion Agencies.—

(a) (1) *The board of commissioners of any county of the second class shall appropriate annually a portion of the funds derived from the excise tax on hotel room rentals to the recognized tourist promotion agency operating within the county. Such funds shall represent one-third (1/3) of the revenues received by the county from the excise tax levied on hotel room rentals as authorized by section 1970.2.*

(2) *Moneys received by the tourist promotion agency shall be limited to promotional programs designed to stimulate and increase the volume of conventions and visitors within the county.*

(3) *An audited report on the income and expenditures incurred by the tourist promotion agency receiving funds from the excise tax on hotel room rentals shall be made annually to the board of county commissioners.*

(b) The board of commissioners of any county of the second class A may appropriate annually such amounts of money but not in excess of ten cents (10¢) for each resident of the county, as determined by the last census, which may be deemed necessary to any "tourist promotion agency," as defined in the act of April 28, 1961 (P.L.111), known as the "Tourist Promotion Law," to assist such agencies in carrying out tourist promotion activities.

Section 3. This act shall take effect immediately.

APPROVED—The 10th day of December, A. D. 1982.

DICK THORNBURGH