

HOUSE BILL 1695

By Marsh

AN ACT relative to the levy of a privilege tax on the occupancy of any room, lodgings or accommodations furnished to transients by any hotel, inn, tourist courts, tourist cabins, motel or any place in which rooms, lodgings, or accommodations are furnished for transients for a consideration in Bedford County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act:

(1) "Clerk" means the county clerk of Bedford County or such other officer as the legislative body of Bedford County may direct by resolution to collect the taxes authorized by this act;

(2) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property, and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(3) "County" means Bedford County, Tennessee;

(4) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, campground, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration;

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any hotel;

(6) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise, and shall include governmental entities;

(7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit other than the United States or any of its agencies; or any other group or combination acting as a unit; and

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of Bedford County may levy a privilege tax on occupancy of hotels located within the county but outside the boundaries of any municipality that has levied a tax on hotel occupancy prior to the county's levy, as permitted by Tennessee Code Annotated § 67-4-1425, upon the privilege of occupancy by each transient in any hotel in an amount not to exceed ten percent (10%) of the rate charged by the operator. The occupancy tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed according to this act. The rate of the tax may be modified by the county legislative body; provided, that the rate must not exceed ten percent (10%). This privilege tax is in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and is in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 3. The proceeds of the tax authorized by this act must be used to support local tourism and economic development. The county legislative body shall specify the use of the proceeds by resolution.

SECTION 4.

(a) Each and every operator shall add the tax to each invoice prepared by the operator for the occupancy of the hotel. The invoice must be given directly to or

transmitted to the transient. The operator shall collect the tax from the transient and shall remit it to the clerk.

(b) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to that person, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

#### SECTION 5.

(a) All operators who lease, rent, or charge for any rooms or spaces in hotels within the county shall remit the tax collected from transients to the clerk not later than the twentieth day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for the occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the county shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the clerk in the form of a deduction in submitting the operator's report and paying the amount due by the operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The clerk is responsible for the collection of the tax and shall place the proceeds of the tax in accounts for the purposes stated in this act. The operator shall file under oath a monthly tax return with the clerk together with the number of copies reasonably required by the clerk for the collection of the tax. The report of the operator must include facts and information as may be deemed reasonable for the verification of the tax due. The clerk shall develop the form of the report and the county legislative body shall approve the report prior to its use. The clerk shall audit each operator in the county at least once per year and shall report on the audits made on a quarterly basis to the county legislative body. The county legislative body may adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for reports.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the consideration, or that if added, any part will be refunded.

SECTION 8.

(a) Taxes collected by an operator that are not remitted to the clerk on or before the due date are delinquent. An operator is liable for interest at the rate of twelve percent (12%) per annum on delinquent taxes from the due date, and additionally for a penalty of one percent (1%) for each month or fraction of a month the taxes are delinquent. The interest and penalty become a part of the tax required to be remitted.

(b) Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is an offense that constitutes a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). As used in this subsection, "each occurrence" means "each day".

(c) Nothing in this section prevents the clerk from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

SECTION 9. It is the duty of every operator liable for the collection and payment to the county of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of the tax as the operator may have been liable for the collection of and payment to the county, which records the clerk has the right to inspect at all reasonable times.

SECTION 10.

(a) The clerk in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes under Tennessee Code Annotated, Title 67, or otherwise provided by law for the county clerks. For the clerk's services in administering and enforcing the provisions of this act, the clerk shall be entitled to retain as a commission five percent (5%) of the taxes so collected.

(b) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act

that the provisions of law that apply to the recovery of state taxes illegally assessed and collected also applies to the tax levied under the authority of this act; provided further, the clerk possesses those powers and duties as provided in Tennessee Code Annotated § 67-1-707 for the county clerks. With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the clerk under the authority of this act must be refunded by the clerk.

(c) Notice of any tax paid under protest must be given to the clerk and the resolution authorizing levy of the tax must designate a county officer against whom suit may be brought for recovery.

SECTION 11. If any provision of this act or the application of any provision of this act to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Bedford County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer of the county legislative body to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective on the first day of the month following approval as provided in Section 12, the public welfare requiring it.