

RELATED PRIVATE ACTS

- Priv. Acts 1978, ch. 218
"Occupancy Tax"
(Appears to have been superseded by Priv. Acts 1979, ch. 159)

- Priv. Acts 1978, ch. 263
"Qualifications to Vote in Municipal Election"
(Amended Chapter 846 of the Public Acts of 1976, therefore not included here)

- Priv. Acts 1979, ch. 159
"Occupancy Tax" C-63

- Priv. Acts 1985, ch. 43 (Amended Priv. Acts 1979, ch. 159)

- Priv. Acts 1998, ch. 174
"Advisory Referendum Relative to a new Highway from Pigeon Forge to the Tri-Cities Airport"
(The question on the ballot asks only for a "yes" or "no" vote, therefore it was not included here.)

Chapter 159, PRIVATE ACTS 1979

CHAPTER NO. 159

HOUSE BILL NO. 997

By Atchley

Substituted for: Senate Bill No. 1332

By Koella

AN ACT authorizing the levy of a privilege tax on the occupancy of any rooms, lodgings, or accommodations furnished to transients by any hotel, inn, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished transients for a consideration in municipalities having populations of not less than 1300 persons nor more than 1400 persons, according the 1970 Federal Census, or any subsequent Federal Census, and in which a certain percent of the assessed valuation of the real estate in the municipality consists of the hotels, motels, and tourist courts accommodations; providing for its collection and administration; providing penalties; and providing for the expending and disturbing of the proceeds of the tax for certain purposes.

WHEREAS, certain cities within the State of Tennessee are in a unique situation in that they are visited by a large number of tourists each year and yet they have only a relatively small permanent population and that this influx of tourists places a heavy burden upon the local inhabitants to provide public facilities including roads, streets, utilities, meeting places, and other public services out of proportion to the local citizens needs and since at least a portion of these expenses should be borne by the tourists who make use of the needed facilities and services, now, therefore,

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

SECTION 1. Definitions. As used in this Act, unless a different meaning clearly appears from the context, the following definitions shall apply:

a. Person. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

b. Hotel. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by

transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

Hotel includes any unit in a time-share estate or time-share use as defined in Tennessee Code Annotated, Section 66-32-102, which is occupied or intended or designed for occupancy by transients for a consideration.

c. Occupancy. "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

d. Transient. "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 ninety (90) continuous days.

(c) Consideration. "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.

(f) Operator. "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(g) Tourism. "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business. [As amended by Priv. Acts 1985, ch. 43 § 1]

SECTION 2. Levy of Tax. Municipalities incorporated under the provisions of Tennessee Code Annotated, Title 6, Chapter 18 having a population of not less than thirteen hundred sixty (1360) nor more than thirteen hundred sixty-five (1365) according to the Federal Census of 1970, or any subsequent Federal Census and in which at least twenty-five percent (25%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, and tourist accommodations, are hereby authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient up to a maximum rate

of three percent (3%) of the consideration charged by the operator. Said tax so imposed is a privilege tax upon the transient occupying said room and is to be collected and distributed as hereinafter provided.

SECTION 3. Tax Added to Room Invoice. Said tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel, such invoice to be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the Department of Finance of the municipality in which the hotel is located.

SECTION 4. Remittance to Director of Finance. The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the Director of Finance of the municipality in which the hotel is located, to be remitted to such officer not later than the 20th day of each month next following collection from the transient.

SECTION 5. Offer to Absorb Tax Prohibited. 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 be added to the rent, or that, if added, any part will be refunded.

SECTION 6. Penalties and Interest for Delinquency. Taxes collected by an operator which are not remitted to the Department of Finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for penalty of one-half of one percent ($\frac{1}{2}$ of 1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving lodging services paid by a customer to the operator in those cases when the operator fails or refuses to pay the tax payable to the Department of Finance.

SECTION 7. Records. It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this Act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the Director of Finance shall have the right to inspect at all reasonable times.

SECTION 8. Administration. In administering and enforcing the provisions of this Act, the Director of Finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Title 67 of Tennessee Code Annotated or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-2313, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the Director of Finance shall possess those powers and duties as provided in Tennessee Code Annotated Section 67-2301, with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this act and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the Director of Finance, and suit for recovery shall be brought against him.

SECTION 9. Expending and Distributing Tax. The proceeds from the tax levied herein shall be retained by the municipality and distributed as follows:

(1) One-third (1/3) of the proceeds shall be used for direct promotion of tourism.

(2) One-third (1/3) of the proceeds shall be used for tourist related activities.

(3) One-third (1/3) of the proceeds shall be deposited in the general funds of the municipality.

Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel.

SECTION 10. Tax is Additional Tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and some shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 11. Severability. If any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional, it shall not affect the remainder of this Act notwithstanding the part held to be invalid, if any, and to that end the provisions of this Act are declared to be severable.

SECTION 12. Local Approval. This Act shall have no effect unless it is approved by a two-third (2/3) vote of the municipal governing body of any municipality to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the governing body and certified by him to the Secretary of State.

SECTION 13. For the purpose of approving this Act as provided in Section 12, it shall take effect on becoming a law, the public welfare requiring

it, but for all other purposes, it shall become effective upon being approved as provided in Section 12.

PASSED: May 16, 1979

s/Ned R. McWherter
SPEAKER OF THE HOUSE OF REPRESENTATIVES

s/John S. Wilder
SPEAKER OF THE SENATE

APPROVED: May 23, 1979

s/Lamar Alexander
GOVERNOR

This is to certify that according to the official records in this office, House Bill No. 997, which is Chapter No. 159 of the Private Acts of 1979, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

s/Gentry Crowell
SECRETARY OF STATE