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Private Acts of 1987 Chapter 109

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1987 Chapter 109

SECTION 1. As used in this act unless the context otherwise requires:

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

(b) "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 camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(c) "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" 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.

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

SECTION 2. The legislative body of Marion County (hereinafter "legislative body") is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this act.

SECTION 3. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the town. When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 4. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the county to the trustee or such other officer as may by resolution of the legislative body be charged with the duty of collection thereof; such tax shall be remitted to such officer not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after 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 entitled to such tax shall be that of the operator.

SECTION 5. The trustee or other authorized collector of the tax authorized by this act shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the trustee by the operator with such number of copies thereof as the trustee may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the trustee and approved by the legislative body prior to use. The trustee 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 legislative body. The legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act.

SECTION 6. 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 rent, or that if added, any part will be refunded.

SECTION 7. Taxes collected by an operator which are not remitted to the trustee 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 twelve percent (12%) per annum, and in addition for penalty one percent (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. 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 hereby declared to be unlawful and shall be

punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the town 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 such tax as he may have been liable for the collection of and payment to the county, which records the trustee shall have the right to inspect at all reasonable times.

SECTION 9. The trustee in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

For his services in administering and enforcing the provisions of this act, the trustee shall be entitled to retain as a commission one percent (1%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The trustee shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707 (a) and (b), for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the trustee and the resolution authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

SECTION 10. The trustee is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund or such other fund as the legislative body may specify by resolution.

SECTION 11. The provisions of this act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of this act shall continue to be in full force and effect, it is the legislative intent now hereby declared, that this act would have been adopted even if such unconstitutional or void matter had not been included herein.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Marion County, not more than ninety (90) days subsequent to its approval by the Governor. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and shall be certified by him 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 upon being approved as provided in Section 12.

Passed: May 6, 1987.

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