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Private Acts of 1989 Chapter 73

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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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Table of Contents

Private Acts of 1989 Chapter 73 3
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SECTION 1. As used in this act, unless the context otherwise requires:

- (1) "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;
- (2) "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, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;
- (3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel;
- (4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise;
- (5) "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; and
- (6) "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.

SECTION 2. A privilege tax is hereby levied in Johnson County 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.

SECTION 3. (a) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his or her hotel and be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the county.

(b) When a person has maintained occupancy for ninety (90) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him or her, and the operator shall receive credit for the amount of such tax if previously paid or reported to Johnson County.

SECTION 4. (a) The tax hereby levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within Johnson County to the county clerk, the tax to be remitted to such officer not later than the twentieth 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 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.

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

SECTION 5. (a) (1) The county clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein.

(2) A monthly tax return shall be filed under oath with the county clerk by the operator with such number of copies thereof as such collector may reasonably require for the collection of such tax.

(3) 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 county clerk and approved by the county legislative body prior to use.

(4) The county 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.

(b) The county legislative body is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this part, including the form for reports.

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. (a) Taxes collected by an operator which are not remitted to the county clerk on or before the due dates shall be delinquent.

(b) 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 the penalty of 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.

(c) 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 constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

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

SECTION 9. (a) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of the law which apply to the recovery of state taxes illegally assessed and collected shall apply to the tax collected under the authority of this act.

(b) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the county clerk under the authority of this act shall be refunded by the county clerk.

(c) Notice of any tax paid under protest shall be given to the county clerk, and suit for recovery may be brought against the county clerk.

SECTION 10. The proceeds of the tax levied by this act shall be placed and retained in the county general fund; provided, however, that the first fifteen thousand dollars (\$15,000) of such proceeds each year shall be appropriated by the county legislative body for the purpose of advertising and promoting tourism in Johnson County.

SECTION 11. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 12. The privilege tax levied by this act 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 shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which 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 14. This act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the county legislative body of Johnson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Johnson County and certified by him to the Secretary of State.

SECTION 15. 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 14.

Passed: April 26, 1989.

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