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Private Acts of 1980 Chapter 216

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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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SECTION 1. As used in the Act, unless the context requires otherwise, the following terms shall have the meanings indicated:

- (a) "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" 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 or campground, 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 use or possession of any room, lodging, or accommodations in a hotel for a period of less than thirty (30) continuous days.
- (d) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, accommodations in a hotel room or campground for a period of less than thirty (30) days.
- (e) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel or campground valued in money whether to be received in money goods, labor, or otherwise, including all receipts, cash, credits, property and service 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 or received from any person.
- (f) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise.
- (g) "Tax collection official" means the county clerk.

SECTION 2. Cocks County is hereby authorized to levy a privilege tax upon the privilege of occupancy in any hotel by a transient in an amount not to exceed three percent (3%) of the consideration charged by the operator. The rate of the tax shall be set annually before the July term by the county legislative body. Such tax is a privilege upon the transient occupying the room or space and shall be paid by such transient.

SECTION 3. The tax shall be added by each 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, a copy thereof filed by month and retained by the operator as provided in Section 7 hereof.

SECTION 4.

- (a) The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms or campground space to the county clerk not later than the twentieth (20th) day of each month next following such collection from the transient. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for occupancy, whether prior to, during or after occupancy, as may be the custom of the operator. 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 and 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 county clerk in the form of a deduction in submitting his report and paying the amount due by him, provided, however, that the amount due was not delinquent at the time of payment.
- (c) For the purpose of compensating the county for collecting the tax, the county shall be allowed two percent (2%) of the amount of tax remitted by hotel, motel or campground operators or twelve thousand dollars (\$12,000.00) per annum whichever is less.

SECTION 5. No operator of a hotel, motel, or campground 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. Taxes collected by an operator which are not remitted to the county clerk on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at a rate of eight percent (8%) per annum, and in addition for a penalty on such taxes of one percent (1%) for each month or fraction thereof that 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 be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

Any fine levied herein shall be applicable to each individual transaction involving lodging services paid by a transient to the operator in those cases when the operator fails or refuses to pay the tax payable to the county clerk.

SECTION 7. It is the duty of every operator liable for the collection and payment of any tax imposed by this Act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax, which records the tax collection official shall have the right to inspect at all reasonable times.

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

Upon any claim or 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 tax collection official shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, with respect to adjustment and settlement with taxpayers of all the errors of taxes collected by him under the authority of this Act and to direct the refunding of same. Notice of any tax paid under protest shall be given the tax collection official, any suit for recovery shall be brought against such tax collection official.

SECTION 9. The county clerk shall faithfully account for, make proper reports of, and pay over to the trustee of the county at monthly intervals, all funds paid to and received by such clerk for the privilege tax.

SECTION 10. The proceeds of the tax imposed in this Act, when collected and paid to the county trustee, shall become part of the county general fund and may be used for county services. However, proceeds of this tax may not be used to provide a subsidy in any form to any hotel.

SECTION 11. 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 12. 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 severable.

SECTION 13. This Act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the county legislative body of Cocke County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving this Act as provided in Section 13, it shall take effect on becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on the first day of the month following ninety (90) days from approval as provided in Section 13.

Passed: March 5, 1980.

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