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Private Acts of 1985 Chapter 7

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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 1985 Chapter 7	3
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Private Acts of 1985 Chapter 7

SECTION 1. For the purposes of this 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, includes any hotel, inn, tourist camp, tourist court, motel, camping facility, campground, trailer park or any place in which rooms, lodgings, accommodations or spaces are furnished transients for consideration.
- (c) "Occupancy" means the use or possession, or the right to 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 thirty (30) 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 deductions therefrom whatsoever. Noting in this definition shall be construed to imply that consideration is charged to or received from any person, entity or the like.
- (f) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise.
- (g) "Tax collection official" mean the county clerk.

SECTION 2. A privilege tax is hereby levied in Sumner 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. The rate of the tax shall be set annually before the July term of the county legislative body. Such tax is a privilege upon the transient occupying the room or space and shall be paid by the transient.

SECTION 3. The 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 county. When a person has maintained occupancy for thirty (30) continuous days, he shall receive from the operator 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 Sumner County.

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, 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.

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). 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 collection 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 of illegal assessment and collection, the taxpayer shall have the remedy provided in the Tennessee Code Annotated, Section 67-1-911, 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 67-1-707 (a) and (b) 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, and suit for recovery shall be brought against such tax collection official.

SECTION 9. The proceeds of the tax levied herein shall be appropriated in the annual budget by the county commission in the following manner: The first three hundred fifty thousand dollars (\$350,000) of the proceeds of the tax levied and collected each fiscal year shall be appropriated and distributed to the Sumner County Board of Tourism. Any amounts collected over and above that amount shall be appropriated and expended at the discretion of the county commission through its normal committee process and voting. In the event that less than three hundred fifty thousand dollars (\$350,000) is collected in any fiscal year, then only the amount of taxes levied and collected in that fiscal year shall be appropriated to the Board of Tourism for that fiscal year.

As amended by: Private Acts of 2010, Chapter 69.

SECTION 10. The tax collected by the county clerk shall be remitted by him to the county trustee for distribution in accordance with the terms of this Act and the laws of the state of Tennessee.

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 (2/3) vote of the county legislative body of Sumner County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Sumner County and certified by him to the Secretary of State.

SECTION 14. 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 13.

Passed: February 25, 1985.

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