

**CHAPTER 344 (HB 438)**

AN ACT relating to tourism and convention commissions.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 91A.350 is amended to read as follows:

- (1) The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting convention and tourist activity.
- (2) The local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth classes located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting **and developing** convention and tourist **activities and facilities**~~[activity]~~.
- (3) The local governing bodies of two (2) or more counties may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist **activities and facilities**~~[activity]~~.
- (4) Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.
- (5) For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide the boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize the boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 2. KRS 91A.360 is amended to read as follows:

- (1) The commission established pursuant to subsection (2) of KRS 91A.350 shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive. **Appointments**~~[Candidates for appointment]~~ to a commission shall be **made by**~~[submitted to]~~ the appropriate chief executive officer or officers in the following manner:
  - (a) Two (2) commissioners **shall be appointed** from a list of three (3) or more names submitted by the local city hotel and motel association **and**~~[-]~~
  - (b) ~~†~~ one (1) commissioner **shall be appointed** from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then

three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to *this* subsection~~[(1)(a) and (1)(b) of this section]~~, then up to three (3) commissioners shall be appointed *by the appropriate chief executive officer or officers* from~~[a list of six (6) or more names of]~~ persons residing within the jurisdiction of the commission *and representing local hotels or motels*~~[, submitted by the Kentucky Hotel and Motel Association]~~. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.

~~(b)~~~~(e)~~ One (1) commissioner *shall be appointed* from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed *by the appropriate chief executive officer or officers* from~~[a list of three (3) or more names of]~~ persons residing within the jurisdiction of the commission *and representing a local restaurant*~~[, submitted by the Kentucky Restaurant Association]~~. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.

~~(c)~~~~(d)~~ One (1) commissioner *shall be appointed* from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. *If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.*

~~(d)~~~~(e)~~ —Two (2) commissioners *shall be* appointed in the following manner:

1. By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or
2. One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.

- (2) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c)~~[(d)]~~, shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists~~[- if not, the association or associations shall by election within ten (10) days determine the commissioner from the list~~

~~or lists submitted by plurality vote of the aggregate membership].~~ Vacancies shall be filled in the same manner that original appointments are made.

- (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of KRS 91A.350 to 91A.390. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.
- (5) The books of the commission ***and its account as established in subsection (2) of Section 5 of this Act*** shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of names from which commission members are selected, to the appropriate chief executive officer or officers, ***to the State Auditor of Public Accounts***, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
- (6) A commissioner may be removed from office, by joint or separate action, of the ***appropriate chief executive officer or officers of the*** local governing body or bodies that established the commission, ~~[consistent with the method by which the commission was established, and]~~ as provided by KRS 65.007.

Section 3. KRS 91A.372 is amended to read as follows:

- (1) The commission established pursuant to subsection (2) of KRS 91A.350 by an urban-county government shall be composed of nine (9) members appointed by the ***mayor***~~[chief elective official]~~ of the urban-county government in the following manner:
  - (a) Three (3) commissioners from a list submitted by the local hotel and motel association.
  - (b) One (1) commissioner from a list submitted by the local restaurant association or associations.
  - (c) One (1) commissioner from a list submitted by the local chamber of commerce.
  - (d) Four (4) commissioners who shall be residents of the urban-county.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the chief elective official of the urban-county shall appoint three (3) commissioners for a term of three (3) years, three (3) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year.

- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as event coordinators, advertising firms, chambers of commerce, publishers and printers.
- (5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor *of the urban-county government*~~and the chief elective official~~.

Section 4. KRS 91A.380 is amended to read as follows:

- (1) The commission established pursuant to subsection (3) of KRS 91A.350 shall be composed of six (6) members from each county to be appointed by the county judge/executive, with the approval of the fiscal court, one (1) of whom shall be a member of the General Assembly in whose district the county or part of the county is located in the following manner:
  - (a) One (1) commissioner from a list of at least three (3) persons submitted by the local restaurant association or associations;
  - (b) One (1) commissioner from a list of at least three (3) persons submitted by the local chamber of commerce;
  - (c) One (1) commissioner by the county judge/executive; and
  - (d) Two (2) commissioners from a list of at least six (6) persons submitted by the local hotel and motel association or associations.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge/executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and two (2) commissioners for a term of one (1) year.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business~~[- provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers]~~.
- (5) The books of the commission *and its account as established in subsection (2) of Section 5 of this Act* shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, *to the State Auditor of Public Accounts*, and to the county judge/executive of each

county. ***A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.***

- (6) A commissioner may be removed from office as provided by KRS 65.007.

Section 5. KRS 91A.390 is amended to read as follows:

- (1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action~~[-]~~ shall enact an ordinance for~~[-the collection and]~~ the enforcement of the tax measure enacted pursuant to this section ***and the collection of the proceeds of this tax measure on a monthly basis.***
- (2) ***All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.***
- (3)~~(2)~~ A portion of the money collected from the imposition of this tax, as determined by the, tax levying body, ***upon the advice and consent of the tourist and convention commission,*** may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business ~~and shall include athletic stadiums].~~ The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.
- (4)~~(3)~~ An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

~~(5)(4)~~ The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated

from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

~~(6)(5)~~ The fiscal court or legislative body of a city establishing a commission pursuant to subsection (1) or (2) of KRS 91A.350 and, in its own name, a commission established pursuant to subsection (1) of KRS 91A.350 is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

~~(7)(6)~~ A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

SECTION 6. A NEW SECTION OF KRS 91A.350 TO 91A.390 IS CREATED TO READ AS FOLLOWS:

- (1) *On an annual basis, the Auditor of Public Accounts shall issue audit standards to be followed in the audits authorized by subsection (5) of Section 2 and subsection (5) of Section 4 of this Act. These audit standards shall supplement generally accepted audit standards. Upon request, the Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit required under Section 2 of this Act. Any costs associated with the review or subsequent audit by the Auditor of Public Accounts shall be borne by the commission. If the Auditor of Public Accounts determines that there are substantive discrepancies in the commission's books or account, the Auditor of Public Accounts shall notify the director of the commission, the county attorney, and the appropriate legislative body of its findings.*
- (2) *Any resident of the county may bring an action in the Circuit Court to enforce the provisions of KRS 91A.350 to 91A.390. The Circuit Court shall hear the action and, on a*

*finding that the commission has violated the provisions of KRS 91A.350 to 91A.390, shall order the commission to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the commission, court costs, to be paid from the commission's account.*

Section 7. KRS 91A.392 is amended to read as follows:

- (1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, the fiscal court in a county containing a city of the first class may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.
- (2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS ~~91A.390(5)~~ **91A.390(6)** to finance in part the expansion of a government-owned convention facility located in the central business district of the city of the first class located in the county.
- (3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the fiscal court shall take action to repeal the ordinance which levied the tax.

**Approved April 6, 2000**