

1 AN ACT relating to resources for local development and declaring an emergency.

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

3 ➔Section 1. KRS 91A.400 is amended to read as follows:

4 (1) As used in this section:

5 **(a) "Base restaurant tax receipts" means the amount of revenue collected as a**
6 **result of the imposition of the restaurant tax pursuant to this section from**
7 **July 1, 2015, to June 30, 2016, by a city that imposed the tax prior to the**
8 **effective date of this Act; and**

9 **(b) "Merged government" means an urban-county government, charter county**
10 **government, consolidated local government, or a unified local**
11 **government.** ~~["authorized city" means a city on the registry maintained by the~~
12 ~~Department for Local Government under subsection (2) of this section.~~

13 ~~(2) [On or before January 1, 2015, the Department for Local Government shall create~~
14 ~~and maintain a registry of cities that, as of January 1, 2014, were classified as cities~~
15 ~~of the fourth or fifth class. The Department for Local Government shall make the~~
16 ~~information included on the registry available to the public by publishing it on its~~
17 ~~Web site.~~

18 ~~(3) In addition to the three percent (3%) transient room tax authorized by KRS~~
19 ~~91A.390,]The [city] legislative body **of any city or merged government that has**~~
20 **formed a tourism and convention commission pursuant to this chapter, or a city**
21 **or merged government that is served by a tourism and convention commission**
22 **pursuant to an interlocal agreement or other provision of law,** ~~[in an authorized~~
23 ~~city] may levy a ~~[an additional restaurant]~~ tax not to exceed three percent (3%) of~~
24 ~~the retail sales **made** by all restaurants doing business in the city **or merged**~~
25 **government imposing the tax, subject to the following:**

26 **(a) The maximum levy that may be imposed within the boundaries of a county**
27 **containing a merged government shall not exceed three percent (3%); and**

1 **(b) If a levy is imposed by a consolidated local government on retail sales made**
2 **by restaurants pursuant to KRS 153.460(2)(b) the combined tax levy of that**
3 **tax and the tax levied by that consolidated local government under this**
4 **section shall not exceed three percent (3%).** ~~[- All moneys collected from the~~
5 ~~tax authorized by this section shall be turned over to the tourist and~~
6 ~~convention commission established in that city as provided by KRS 91A.350~~
7 ~~to 91A.390.]~~

8 **(3) For cities or merged governments imposing a restaurant tax pursuant to this**
9 **section on or after the effective date of this Act, the revenue generated by the**
10 **restaurant tax shall be divided between the taxing jurisdiction and the tourist and**
11 **convention commission that either is established by the taxing jurisdiction**
12 **pursuant to KRS 91A.350 to 91A.390 or is one that serves the taxing jurisdiction**
13 **pursuant to an interlocal agreement or other provision of law. The taxing**
14 **jurisdiction shall distribute a minimum of twenty-five percent (25%) of all**
15 **restaurant revenue collected to the tourist and convention commission for uses**
16 **consistent with KRS 91A.350 to 91A.390. The taxing jurisdiction shall use the**
17 **remainder of all restaurant tax revenue collected for the capital construction,**
18 **maintenance, or operation of infrastructure that supports tourism, recreation,**
19 **and economic development within the taxing jurisdiction, provided that an**
20 **amount equal to not less than one-third (1/3) of the total remaining restaurant**
21 **tax revenues shall be used to fund recreation infrastructure or programs within**
22 **the taxing jurisdiction.**

23 **(4) (a) Cities that imposed the tax prior to the effective date of this Act shall**
24 **provide to the tourist and convention commission serving the city an**
25 **amount of the revenue collected from imposition of the tax equal to the base**
26 **restaurant tax receipts plus a minimum of twenty-five percent (25%) of**
27 **restaurant tax revenues collected above the base restaurant tax receipts for**

1 uses consistent with KRS 91.350 to 91A.390. The city shall use the
2 remainder of restaurant tax revenues above the amount to be provided to
3 the tourist and convention commission pursuant to this subsection for the
4 capital construction, maintenance, or operation of infrastructure that
5 supports tourism, recreation, and economic development within the city,
6 provided that an amount equal to not less than one-third (1/3) of the total
7 remaining restaurant tax revenues shall be used to fund recreation
8 infrastructure or programs within the taxing jurisdiction.

9 (b) The revenue distributed to a tourist and convention commission pursuant to
10 this subsection that equal the base restaurant tax receipts:

- 11 1. Shall be requested and budgeted in the same manner as the transient
12 room tax as provided under KRS 91A.390(1)(a) and (b);
- 13 2. Shall be separately maintained, accounted for, and considered as tax
14 revenue;
- 15 3. Shall be used to make up a part of the commission's budget for its
16 next fiscal year when not expended by the commission in its current
17 year;
- 18 4. May, upon the advice and consent of the tourist and convention
19 commission, be partially used by the city legislative body to finance the
20 cost of acquisition, construction, operation, and maintenance of
21 facilities useful in the attraction and promotion of tourist and
22 convention business;
- 23 5. May, with the approval of the city legislative body, be pledged by the
24 tourist and convention commission as security to borrow money to pay
25 its obligations that cannot be paid at maturity out of current revenue
26 from the restaurant tax, except that the tourist and convention
27 commission shall not borrow a sum greater than can be repaid out of

1 the revenue anticipated from the restaurant tax during the year the
2 money is borrowed; and

3 6. Shall not be used as a subsidy in any form to any hotel, motel, or
4 restaurant.

5 (c) This subsection shall not be interpreted to:

6 1. Void, supplant, or otherwise affect any existing agreement between a
7 city and a tourist and convention commission regarding the
8 distribution of use of restaurant tax revenues; or

9 2. Prevent any future agreement between a city and tourist and
10 convention commission that provides terms for the distribution or use
11 of restaurant tax revenues.

12 (d) This subsection shall expire and become ineffective on July 1, 2023, and
13 cities that impose the restaurant tax prior to the effective date of this Act
14 shall comply with the requirements of subsection (3) of this section on and
15 after July 1, 2023.

16 (5) If both a city within a county containing a merged government and the merged
17 government impose a restaurant tax pursuant to this section, a restaurant shall
18 credit the payment of the city restaurant tax against the amount due the merged
19 government.

20 (6) (a) A restaurant that pays a restaurant tax levied pursuant to this section to a
21 taxing jurisdiction shall not pay a percentage-based occupational license fee
22 or license tax imposed on the net profits or gross receipts of the business by
23 the same taxing jurisdiction.

24 (b) This subsection shall not be construed to:

25 1. Eliminate the requirement for any restaurant to apply for and obtain a
26 business license for operation as may be required under local
27 ordinance; or

1 2. Prevent the application of an occupational license fee or tax from
2 being assessed on the wages of the restaurant's employees for the
3 privilege of working within the taxing jurisdiction.

4 (7) A city or merged government levying the tax allowed by this section for first time,
5 or changing a rate of levy allowed by this section that is already in force, shall
6 provide through ordinance that the initial levy or rate change takes effect at the
7 beginning of a calendar month.

8 ➔Section 2. Whereas it is necessary to coordinate the effective date of this
9 legislation with the beginning of the fiscal year, an emergency is declared to exist, and
10 this Act takes effect on July 1, 2018.