

1 AN ACT relating to resources for local development.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) *As used in this section:*

6 (a) *"Base restaurant tax receipts" means the amount of revenue collected as a*
7 *result of the imposition of the restaurant tax pursuant to this section from*
8 *July 1, 2016, to June 30, 2017, by a city that imposed the tax prior to the*
9 *effective date of this Act; and*

10 (b) *"Merged government" means an urban-county government, charter county*
11 *government, consolidated local government, or unified local government.*

12 (2) *The legislative body of any city, county, or merged government that has formed a*
13 *tourism and convention commission pursuant to KRS Chapter 91A, or a city,*
14 *county, or merged government that is served by a tourism and convention*
15 *commission pursuant to an interlocal agreement or other provision of law, may*
16 *levy a tax not to exceed three percent (3%) of the retail sales made by all*
17 *restaurants doing business in the city, county, or merged government imposing*
18 *the tax, subject to the following:*

19 (a) *The maximum, cumulative levy that may be imposed within the boundaries*
20 *of a county shall not exceed three percent (3%); and*

21 (b) *If a levy is imposed by a consolidated local government on retail sales made*
22 *by restaurants pursuant to KRS 153.460(2)(b) the combined tax levy of that*
23 *tax and the tax levied by that consolidated local government under this*
24 *section shall not exceed three percent (3%).*

25 (3) *For cities, counties, or merged governments imposing a restaurant tax pursuant*
26 *to this section on or after the effective date of this Act, the revenue generated by*
27 *the restaurant tax shall be divided between the taxing jurisdiction and the tourist*

1 and convention commission that either is established by the taxing jurisdiction
2 pursuant to KRS 91A.350 to 91A.390 or is one that serves the taxing jurisdiction
3 pursuant to an interlocal agreement or other provision of law. The taxing
4 jurisdiction shall distribute a minimum of twenty-five percent (25%) of all
5 restaurant revenue collected to the tourist and convention commission for uses
6 consistent with KRS 91A.350 to 91A.390. The taxing jurisdiction shall use the
7 remainder of all restaurant tax revenue collected for the capital construction,
8 maintenance, or operation of infrastructure that supports tourism, recreation,
9 and economic development within the taxing jurisdiction, provided that an
10 amount equal to not less than one-third (1/3) of the total remaining restaurant
11 tax revenues shall be used to fund recreation infrastructure or programs within
12 the taxing jurisdiction.

13 (4) (a) Cities that imposed the tax prior to the effective date of this Act shall
14 provide to the tourist and convention commission serving the city an
15 amount of the revenue collected from imposition of the tax equal to the base
16 restaurant tax receipts plus a minimum of twenty-five percent (25%) of
17 restaurant tax revenues collected above the base restaurant tax receipts for
18 uses consistent with KRS 91.350 to 91A.390. The city shall use the
19 remainder of restaurant tax revenues above the amount to be provided to
20 the tourist and convention commission pursuant to this subsection for the
21 capital construction, maintenance, or operation of infrastructure that
22 supports tourism, recreation, and economic development within the city,
23 provided that an amount equal to not less than one-third (1/3) of the total
24 remaining restaurant tax revenues shall be used to fund recreation
25 infrastructure or programs within the taxing jurisdiction.

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

- 1 1. Shall be requested and budgeted in the same manner as the transient
2 room tax as provided under KRS 91A.390(1)(a) and (b);
 - 3 2. Shall be separately maintained, accounted for, and considered as tax
4 revenue;
 - 5 3. Shall be used to make up a part of the commission's budget for its
6 next fiscal year when not expended by the commission in its current
7 year;
 - 8 4. May, upon the advice and consent of the tourist and convention
9 commission, be partially used by the city legislative body to finance the
10 cost of acquisition, construction, operation, and maintenance of
11 facilities useful in the attraction and promotion of tourist and
12 convention business;
 - 13 5. May, with the approval of the city legislative body, be pledged by the
14 tourist and convention commission as security to borrow money to pay
15 its obligations that cannot be paid at maturity out of current revenue
16 from the restaurant tax, except that the tourist and convention
17 commission shall not borrow a sum greater than can be repaid out of
18 the revenue anticipated from the restaurant tax during the year the
19 money is borrowed; and
 - 20 6. Shall not be used as a subsidy in any form to any hotel, motel, or
21 restaurant.
- 22 (c) This subsection shall not be interpreted to:
- 23 1. Void, supplant, or otherwise affect any existing agreement between a
24 city and a tourist and convention commission regarding the
25 distribution of use of restaurant tax revenues; or
 - 26 2. Prevent any future agreement between a city and tourist and
27 convention commission that provides terms for the distribution or use

1 of restaurant tax revenues.

2 (d) This subsection shall expire and become ineffective on July 1, 2024, and
3 cities that imposed the restaurant tax prior to the effective date of this Act
4 shall comply with the requirements of subsection (3) of this section on and
5 after July 1, 2024.

6 (5) (a) If both a city within a county containing a merged government and the
7 merged government impose a restaurant tax pursuant to this section, a
8 restaurant shall credit the payment of the city restaurant tax against the
9 amount due the merged government; and

10 (b) If a county not containing a merged government and a city within that
11 county both impose a restaurant tax pursuant to this section, a restaurant
12 shall credit the payment of the city restaurant tax against the amount due
13 the county.

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

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

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

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

25 (7) A city, county, or merged government levying the tax allowed by this section for
26 the first time, or changing a rate of levy allowed by this section that is already in
27 force, shall provide through ordinance that the initial levy or rate change takes

1 *effect at the beginning of a calendar month.*

2 ➔Section 2. KRS 67.938 is amended to read as follows:

- 3 (1) The tax structure, tax rates, and level of services in effect in the county and in each
4 of the participating cities upon the adoption of a unified local government shall
5 remain in effect after the adoption of the unified local government and shall remain
6 the same until changed by the newly elected unified local government legislative
7 council.
- 8 (2) In order to maintain the tax structure, tax rates, or level of services in the areas of
9 the unified local government formerly comprising incorporated cities, the unified
10 local government council may provide, in a manner described in this section, for
11 taxes and services within the formerly incorporated cities that are different from the
12 taxes and services which are applicable in the remainder of the unified local
13 government. If a unified local government is formed that contains a participating
14 city with a restaurant tax imposed pursuant to *Section 1 of this Act*~~[KRS 91A.400]~~,
15 the restaurant tax may be retained by the unified local government in the area of the
16 participating city.
- 17 (3) Any difference in the ad valorem tax rate on the class of property which includes
18 the surface of the land in the portion of the county formerly comprising the
19 incorporated cities, and the surface of the land in the portion of the county other
20 than that formerly comprising the incorporated cities, may be imposed directly by
21 the unified local government legislative council. Any change in these ad valorem
22 tax rates shall comply with KRS 68.245, 132.010, 132.017, and 132.027 and shall
23 be used for services as provided by KRS 82.085.
- 24 (4) All delinquent taxes of a participating city in a unified local government shall be
25 filed with the county clerk and shall be known as certificates of delinquency or
26 personal property certificates of delinquency and shall be governed by the
27 procedures set out in KRS Chapter 134, except that certificates of delinquency and

1 personal property certificates of delinquency on former city tax bills may be paid or
2 purchased directly from the clerk under KRS 134.126 and 134.127.

3 ➔Section 3. KRS 91A.390 is amended to read as follows:

4 (1) (a) The commission shall annually submit to the local governing body or bodies
5 which established it a request for funds for the operation of the commission.

6 (b) The local governing body or bodies shall include the commission in the
7 annual budget and shall provide funds for the operation of the commission by
8 imposing a transient room tax on the rent for every occupancy of a suite,
9 room, or rooms, charged by all persons, companies, corporations, or other like
10 or similar persons, groups, or organizations doing business as motor courts,
11 motels, hotels, inns, or like or similar accommodations businesses as follows:

12 1. For a local governing body or bodies, other than an urban-county
13 government, the tax rate shall not exceed three percent (3%); and

14 2. For an urban-county government, the tax rate shall not exceed four
15 percent (4%).

16 (c) In addition to the three percent (3%) levy authorized by paragraph (b)1. of this
17 subsection, the local governing body other than an urban-county government
18 may impose a special transient room tax not to exceed one percent (1%) for
19 the purposes of:

20 1. Meeting the operating expenses of a convention center; and

21 2. In the case of a consolidated local government, financing the renovation
22 or expansion of a convention center that is government-owned and
23 located in the central business district of the consolidated local
24 government, except that if a consolidated local government imposes the
25 special transient room tax authorized under this paragraph on or after
26 August 1, 2014, revenue derived from the levy shall not be used to meet
27 the operating expenses of a convention center until any debt issued for

1 financing the renovation or expansion of a government-owned
2 convention center located in the central business district of the
3 consolidated local government is retired.

4 (d) Transient room taxes shall not apply to the rental or leasing of an apartment
5 supplied by an individual or business that regularly holds itself out as
6 exclusively providing apartments. Apartment means a room or set of rooms,
7 in an apartment building, fitted especially with a kitchen and usually leased as
8 a dwelling for a minimum period of thirty (30) days or more.

9 (e) The local governing body or bodies that have established a commission by
10 joint or separate action shall enact an ordinance for the enforcement of the tax
11 measure enacted pursuant to this section and the collection of the proceeds of
12 this tax measure on a monthly basis.

13 (2) All moneys collected pursuant to this section and Section 1 of this Act ~~KRS~~
14 ~~91A.400~~ shall be maintained in an account separate and unique from all other
15 funds and revenues collected, and shall be considered tax revenue for the purposes
16 of KRS 68.100 and KRS 92.330.

17 (3) A portion of the money collected from the imposition of this tax, as determined by
18 the tax levying body, upon the advice and consent of the tourist and convention
19 commission, may be used to finance the cost of acquisition, construction, operation,
20 and maintenance of facilities useful in the attraction and promotion of tourist and
21 convention business, including projects described in KRS 154.30-050(2)(a). The
22 balance of the money collected from the imposition of this tax shall be used for the
23 purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a
24 subsidy in any form to any hotel, motel, or restaurant, except as provided in KRS
25 154.30-050(2)(a)3.c. Money not expended by the commission during any fiscal year
26 shall be used to make up a part of the commission's budget for its next fiscal year.

27 (4) A county with a city of the first class may impose an additional tax, not to exceed

1 one and one-half percent (1.5%) of the room rent. This additional tax, if approved
2 by the local governing body, shall be collected and administered in the same manner
3 as the regular tax and shall be used for the purpose of funding additional promotion
4 of tourist and convention business.

5 (5) An urban-county government may impose an additional tax, not to exceed one
6 percent (1%) of the room rents included in this subsection. This additional tax shall
7 be collected and administered in the same manner as the regular tax with the
8 exception that this additional tax shall be used for the purpose of funding the
9 purchase of development rights program provided for under KRS 67A.845.

10 (6) Local governing bodies which have formed multicounty tourist and convention
11 commissions as provided by KRS 91A.350(3) may impose an additional tax, not to
12 exceed one percent (1%) of the room rents. This additional tax, if approved by each
13 governing body, shall be collected and administered in the same manner as the
14 regular tax, with the exception that this additional tax shall be used for the purpose
15 of funding regional efforts relating to the promotion of tourist and convention
16 business and convention centers. In no event shall any revenues collected as
17 provided for under KRS 91A.350(3) be utilized for the construction, renovation,
18 maintenance, or additions to any convention center that is located outside the
19 boundaries of the Commonwealth of Kentucky.

20 (7) The commission, with the approval of the tax levying body, may borrow money to
21 pay its obligations that cannot be paid at maturity out of current revenue from the
22 transient room tax, but shall not borrow a sum greater than can be repaid out of the
23 revenue anticipated from the transient room tax during the year the money is
24 borrowed. The commission may pledge its securities for the repayment of any sum
25 borrowed.

26 (8) The fiscal court or legislative body of a consolidated local government or city
27 establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name,

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

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

- 1 ➔Section 4. The following KRS section is repealed:
- 2 91A.400 Restaurant tax in authorized cities.