

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, 2018, to June 30, 2019, by a city that imposed the tax prior to the
9 effective date of this Act;

10 (b) "Merged government" means an urban-county government, charter county
11 government, consolidated local government, or unified local government;
12 and

13 (c) "Nonhighway transportation infrastructure" means riverports, navigable
14 waterways, air rail, mass transit and other similar projects, but shall not
15 include the construction or maintenance of roads and bridges.

16 (2) The legislative body of any:

17 (a) City, county, or merged government that has formed a tourist and
18 convention commission pursuant to KRS Chapter 91A; or

19 (b) City, county, or merged government that is served by a tourist and
20 convention commission pursuant to an interlocal agreement or other
21 provision of law;

22 may levy, in addition to the three percent (3%) transient room tax authorized by
23 Section 4 of this Act, a tax not to exceed three percent (3%) of the retail sales
24 made by all restaurants doing business in the city, county, or merged government
25 imposing the tax. The maximum, cumulative levy that may be imposed within the
26 boundaries of a county shall not exceed three percent (3%) as required by
27 subsection (5) of this section.

- 1 (3) (a) 1. Except for consolidated local governments exempted under paragraph
2 (b) of this subsection, and cities within a consolidated local
3 government that are exempted under paragraph (c) of this subsection,
4 for cities, counties, or merged governments imposing a restaurant tax
5 pursuant to this section on or after the effective date of this Act, the
6 revenue generated by the restaurant tax shall be divided between the
7 taxing jurisdiction and the tourist and convention commission that
8 either is established by the taxing jurisdiction pursuant to KRS
9 91A.350 to 91A.390 or is one that serves the taxing jurisdiction
10 pursuant to an interlocal agreement or other provision of law.
- 11 2. The taxing jurisdiction shall distribute a minimum of twenty-five
12 percent (25%) of all restaurant revenue collected to the tourist and
13 convention commission for uses consistent with KRS 91A.350 to
14 91A.390.
- 15 3. The taxing jurisdiction shall use the remainder of all restaurant tax
16 revenue collected for funding the following uses:
- 17 a. Capital construction, maintenance, or operation of
18 infrastructure that support or stimulate tourism, recreation, or
19 economic development;
- 20 b. Economic development that supports or stimulates tourism and
21 recreation;
- 22 c. Industrial development that supports or stimulates tourism,
23 recreation, or economic development;
- 24 d. Public safety services; and
- 25 e. Nonhighway transportation infrastructure that supports or
26 stimulates tourism, recreation, or economic development;
27 within the taxing jurisdiction, provided that an amount equal to not

1 less than one-third (1/3) of the total remaining restaurant tax revenues
2 shall be used to fund recreation infrastructure or programs within the
3 taxing jurisdiction.

4 **(b) 1. Consolidated local governments may, but shall not be required to,**
5 divide any revenues generated from its imposition of the restaurant tax
6 with a tourist and convention commission created pursuant to KRS
7 91A.370(8).

8 **2. All revenues collected by a consolidated local government that are not**
9 divided with its tourist and convention commission shall be used
10 exclusively for funding the following uses:

11 **a. Capital construction, maintenance, or operation of**
12 infrastructure that support or stimulate tourism, recreation, or
13 economic development;

14 **b. Economic development that supports or stimulates tourism and**
15 recreation;

16 **c. Industrial development that supports or stimulates tourism,**
17 recreation, or economic development;

18 **d. Public safety services; and**

19 **e. Nonhighway transportation infrastructure that supports or**
20 stimulates tourism, recreation, or economic development;

21 within the taxing jurisdiction, provided that an amount equal to not less
22 than one-third (1/3) of the total remaining restaurant tax revenues shall be
23 used to fund recreation infrastructure or programs within the consolidated
24 local government's jurisdiction.

25 **(c) A city located within a county containing a consolidated local government**
26 that has not formed its own tourist and convention commission pursuant to
27 KRS 91A.350 that is served by the tourist and convention commission

1 created by the consolidated local government in that county may also
2 operate under the provisions of paragraph (b) of this subsection in the same
3 manner as the consolidated local government. However, if a city located
4 within a county containing a consolidated local government has formed its
5 own tourist and convention commission pursuant to KRS 91A.350, it shall
6 remain subject to paragraph (a) of this subsection.

7 (4) (a) 1. Cities that imposed the tax prior to the effective date of this Act shall
8 provide to the tourist and convention commission serving the city an
9 amount of the revenue collected from imposition of the tax equal to
10 the base restaurant tax receipts for uses consistent with KRS 91A.350
11 to 91A.390.

12 2. The city shall use the remainder of restaurant tax revenues above the
13 amount to be provided to the tourist and convention commission
14 pursuant to this subsection exclusively for the following uses:

15 a. Capital construction, maintenance, or operation of
16 infrastructure that support or stimulate tourism, recreation, or
17 economic development;

18 b. Economic development that supports or stimulates tourism and
19 recreation;

20 c. Industrial development that supports or stimulates tourism,
21 recreation, or economic development;

22 d. Public safety services; and

23 e. Nonhighway transportation infrastructure that supports or
24 stimulates tourism, recreation, or economic development;

25 within the taxing jurisdiction, provided that an amount equal to not
26 less than one-third (1/3) of the total remaining restaurant tax revenues
27 shall be used to fund recreation infrastructure or programs within the

1 taxing jurisdiction.

2 (b) The revenue distributed to a tourist and convention commission pursuant to
3 this subsection that equals the base restaurant tax receipts:

4 1. Shall be requested and budgeted in the same manner as the transient
5 room tax as provided under subsection (1)(a) and (b) of Section 4 of
6 this Act;

7 2. Shall be separately maintained, accounted for, and considered as tax
8 revenue;

9 3. Shall be used to make up a part of the commission's budget for its
10 next fiscal year when not expended by the commission in its current
11 year;

12 4. May, upon the advice and consent of the tourist and convention
13 commission, be partially used by the city legislative body to finance the
14 cost of acquisition, construction, operation, and maintenance of
15 facilities useful in the attraction and promotion of tourist and
16 convention business;

17 5. May, with the approval of the city legislative body, be pledged by the
18 tourist and convention commission as security to borrow money to pay
19 its obligations that cannot be paid at maturity out of current revenue
20 from the restaurant tax, except that the tourist and convention
21 commission shall not borrow a sum greater than can be repaid out of
22 the revenue anticipated from the restaurant tax during the year the
23 money is borrowed; and

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

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

27 1. Void, supplant, or otherwise affect any existing agreement between a

- 1 city and a tourist and convention commission regarding the
2 distribution of use of restaurant tax revenues; or
- 3 2. Prevent any future agreement between a city and tourist and
4 convention commission that provides terms for the distribution or use
5 of restaurant tax revenues.
- 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.
- 10 (b) 1. 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
12 restaurant shall credit the payment of the city restaurant tax against
13 the amount due the county.
- 14 2. If both the city and county impose a tax pursuant to this section, and a
15 city annexes territory after the effective date of this Act that contains a
16 restaurant that has been collecting and remitting tax revenue to the
17 county prior to annexation, the city and county shall enter into an
18 interlocal agreement for the sharing of the revenue from the
19 restaurant wherein the revenue shall be split evenly between the city
20 and the county, unless the city and the county agree to a different split
21 ratio. The agreement shall be maintained for a period of not less than
22 five (5) years following the annexation. After the expiration of the
23 agreement, the restaurant shall credit the payment of the city tax
24 against the amount due the county.
- 25 3. Nothing in this paragraph shall be interpreted to prevent a city and a
26 county from establishing an interlocal agreement pursuant to the
27 provisions of KRS 65.210 to 65.300 to share revenue from a tax

1 imposed by both a city and a county pursuant to this section.

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

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

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

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

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

17 ➔Section 2. KRS 153.460 is amended to read as follows:

18 (1) As used in this section, ~~the~~

19 ~~(a) "multipurpose arena" means a facility whose principal use includes but is not~~
 20 ~~limited to the exhibition of collegiate basketball competition;~~

21 ~~(b) "Restaurant" means any facility operated for profit which has minimum~~
 22 ~~seating capacity of fifty (50) people at tables and which receives less than fifty~~
 23 ~~percent (50%) of its annual food and beverage income from the sale of~~
 24 ~~alcohol.~~

25 (2) Fiscal courts in counties containing cities of the first class or consolidated local
 26 governments may levy ~~the~~

27 ~~(a) a ten percent (10%) surcharge on all tickets sold by a multipurpose arena~~

1 located in the county and constructed after April 9, 1980~~[- and~~
2 ~~(b) A one fourth of one percent (0.25%) tax on gross receipts from the sale of~~
3 ~~food and beverages of all restaurants located in the county].~~

4 (3) All moneys collected from the surcharge on tickets ~~[and the restaurant tax]~~ shall be
5 placed in a fund to be used to defray operating expenses of any such multipurpose
6 arena.

7 ➔Section 3. KRS 67.938 is amended to read as follows:

8 (1) The tax structure, tax rates, and level of services in effect in the county and in each
9 of the participating cities upon the adoption of a unified local government shall
10 remain in effect after the adoption of the unified local government and shall remain
11 the same until changed by the newly elected unified local government legislative
12 council.

13 (2) In order to maintain the tax structure, tax rates, or level of services in the areas of
14 the unified local government formerly comprising incorporated cities, the unified
15 local government council may provide, in a manner described in this section, for
16 taxes and services within the formerly incorporated cities that are different from the
17 taxes and services which are applicable in the remainder of the unified local
18 government. If a unified local government is formed that contains a participating
19 city with a restaurant tax imposed pursuant to **Section 1 of this Act**~~[KRS 91A.400]~~,
20 the restaurant tax may be retained by the unified local government in the area of the
21 participating city.

22 (3) Any difference in the ad valorem tax rate on the class of property which includes
23 the surface of the land in the portion of the county formerly comprising the
24 incorporated cities, and the surface of the land in the portion of the county other
25 than that formerly comprising the incorporated cities, may be imposed directly by
26 the unified local government legislative council. Any change in these ad valorem
27 tax rates shall comply with KRS 68.245, 132.010, 132.017, and 132.027 and shall

1 be used for services as provided by KRS 82.085.

2 (4) All delinquent taxes of a participating city in a unified local government shall be
3 filed with the county clerk and shall be known as certificates of delinquency or
4 personal property certificates of delinquency and shall be governed by the
5 procedures set out in KRS Chapter 134, except that certificates of delinquency and
6 personal property certificates of delinquency on former city tax bills may be paid or
7 purchased directly from the clerk under KRS 134.126 and 134.127.

8 ➔Section 4. KRS 91A.390 is amended to read as follows:

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

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

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

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

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

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

26 2. In the case of a consolidated local government, financing the renovation
27 or expansion of a convention center that is government-owned and

1 located in the central business district of the consolidated local
2 government, except that if a consolidated local government imposes the
3 special transient room tax authorized under this paragraph on or after
4 August 1, 2014, revenue derived from the levy shall not be used to meet
5 the operating expenses of a convention center until any debt issued for
6 financing the renovation or expansion of a government-owned
7 convention center located in the central business district of the
8 consolidated local government is retired.

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

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

18 (2) All moneys collected pursuant to this section and Section 1 of this Act ~~KRS~~
19 ~~91A.400~~ shall be maintained in an account separate and unique from all other
20 funds and revenues collected, and shall be considered tax revenue for the purposes
21 of KRS 68.100 and KRS 92.330.

22 (3) A portion of the money collected from the imposition of this tax, as determined by
23 the tax levying body, upon the advice and consent of the tourist and convention
24 commission, may be used to finance the cost of acquisition, construction, operation,
25 and maintenance of facilities useful in the attraction and promotion of tourist and
26 convention business, including projects described in KRS 154.30-050(2)(a). The
27 balance of the money collected from the imposition of this tax shall be used for the

- 1 purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a
2 subsidy in any form to any hotel, motel, or restaurant, except as provided in KRS
3 154.30-050(2)(a)3.c. Money not expended by the commission during any fiscal year
4 shall be used to make up a part of the commission's budget for its next fiscal year.
- 5 (4) A county with a city of the first class may impose an additional tax, not to exceed
6 one and one-half percent (1.5%) of the room rent. This additional tax, if approved
7 by the local governing body, shall be collected and administered in the same manner
8 as the regular tax and shall be used for the purpose of funding additional promotion
9 of tourist and convention business.
- 10 (5) An urban-county government may impose an additional tax, not to exceed one
11 percent (1%) of the room rents included in this subsection. This additional tax shall
12 be collected and administered in the same manner as the regular tax with the
13 exception that this additional tax shall be used for the purpose of funding the
14 purchase of development rights program provided for under KRS 67A.845.
- 15 (6) Local governing bodies which have formed multicounty tourist and convention
16 commissions as provided by KRS 91A.350(3) may impose an additional tax, not to
17 exceed one percent (1%) of the room rents. This additional tax, if approved by each
18 governing body, shall be collected and administered in the same manner as the
19 regular tax, with the exception that this additional tax shall be used for the purpose
20 of funding regional efforts relating to the promotion of tourist and convention
21 business and convention centers. In no event shall any revenues collected as
22 provided for under KRS 91A.350(3) be utilized for the construction, renovation,
23 maintenance, or additions to any convention center that is located outside the
24 boundaries of the Commonwealth of Kentucky.
- 25 (7) The commission, with the approval of the tax levying body, may borrow money to
26 pay its obligations that cannot be paid at maturity out of current revenue from the
27 transient room tax, but shall not borrow a sum greater than can be repaid out of the

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

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

19 (9) A commission established pursuant to KRS 91A.350(3) is authorized and
20 empowered to issue revenue bonds in its own name, payable solely from its income
21 and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects.
22 Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any
23 cost for the acquisition of real estate, the construction of buildings and
24 appurtenances, the preparation of plans and specifications, and legal and other
25 services incidental to the project or to the issuance of the bonds. The payment of the
26 bonds, with interest, may be secured by a pledge of and a first lien on all of the
27 receipts and revenue derived, or to be derived, from the rental or operation of the

1 property involved. Bond and interest obligations issued pursuant to this section shall
2 not constitute an indebtedness of the county. All bonds sold pursuant to this section
3 shall be subject to competitive bidding as provided by law, and shall not bear
4 interest at rates exceeding those for bonds issued for public projects under KRS
5 Chapter 58.

6 ➔Section 5. The following KRS section is repealed:

7 91A.400 Restaurant tax in authorized cities.