

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1074

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-9-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 32. Jackson County Innkeeper's Tax

Sec. 1. (a) This chapter applies to a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800) that had adopted an innkeeper's tax under IC 6-9-18 before July 1, 1999.

(b) The:

- (1) convention, visitor, and tourism promotion fund;**
- (2) convention and visitor commission;**
- (3) innkeeper's tax rate; and**
- (4) tax collection procedures;**

established under IC 6-9-18 before July 1, 1999, remain in effect and govern the county's innkeeper's tax until amended under this chapter.

(c) A member of the convention and visitor commission established under IC 6-9-18 before July 1, 1999, shall serve a full term of office. If a vacancy occurs, the appointing authority shall appoint a qualified replacement as provided under this chapter.

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The appointing authority shall make other subsequent appointments to the commission as provided under this chapter.

Sec. 2. As used in this chapter:

- (1) "executive" and "fiscal body" have the meanings set forth in IC 36-1-2; and
- (2) "gross retail income" and "person" have the meanings set forth in IC 6-2.5-1.

Sec. 3. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

- (1) hotel;
- (2) motel;
- (3) boat motel;
- (4) inn;
- (5) college or university memorial union;
- (6) college or university residence hall or dormitory; or
- (7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which:

- (1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed the rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration

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of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 4. (a) The county treasurer shall establish a convention, visitor, and tourism promotion fund. The treasurer shall deposit in this fund all amounts the treasurer receives under that section.

(b) The county auditor shall issue a warrant directing the county treasurer to transfer money from the convention, visitor, and tourism promotion fund to the treasurer of the commission established under section 5 of this chapter if the commission submits a written request for the transfer.

(c) Money in a convention, visitor, and tourism promotion fund, or money transferred from such a fund under subsection (b), may be expended:

(1) to promote and encourage conventions, visitors, and tourism within the county; and

(2) to promote and encourage industrial and economic development within the county. However, the county may not expend more than twenty-five percent (25%) of the revenues from the tax imposed under section 3 of this chapter to promote and encourage industrial and economic development.

Expenditures under subdivision (1) may include, but are not limited to, expenditures for advertising, promotional activities, trade shows, special events, and recreation.

(d) If before July 1, 1997, the county issued a bond with a pledge of revenues from the tax imposed under IC 6-9-18-3, the county shall continue to expend money from the fund for that purpose until the bond is paid.

Sec. 5. (a) The county executive shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. If two (2) or more adjoining counties desire to establish a joint commission, the counties shall enter into an agreement under IC 36-1-7.

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(b) The county executive shall determine the number of members, which must be an odd number, to be appointed to the commission. A simple majority of the members must be:

- (1) engaged in a convention, visitor, or tourism business; or
- (2) involved in or promoting conventions, visitors, or tourism.

If available and willing to serve, at least two (2) of the members must be engaged in the business of renting or furnishing rooms, lodging, or accommodations (as described in section 3 of this chapter). Not more than one (1) member may be affiliated with the same business entity. No more than a simple majority of the members may be affiliated with the same political party. Each member must reside in the county. The county executive shall also determine who will make the appointments to the commission, except that the executive of the largest municipality in the county shall appoint a number of the members of the commission, which number shall be in the same ratio to the total size of the commission (rounded off to the nearest whole number) that the population of the largest municipality bears to the total population of the county.

(c) If a municipality other than the largest municipality in the county collects fifty percent (50%) or more of the tax revenue collected under this chapter during the three (3) month period following imposition of the tax, the executive of the municipality shall appoint the same number of members to the commission that the executive of the largest municipality in the county appoints under subsection (b).

(d) Except as provided in subsection (c), all terms of office of commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two (2) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an initial appointment is not made by February 1 or a vacancy is not filled within thirty (30) days, the commission shall appoint a member by majority vote.

(e) A member of the commission may be removed for cause by the member's appointing authority.

(f) Members of the commission may not receive a salary. However, commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(g) Each commission member, before entering the member's

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duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(h) The commission shall meet after January 1 each year for the purpose of organization. It shall elect one (1) of its members president, another vice president, another secretary, and another treasurer. The members elected to those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve from the date of their election until their successors are elected and qualified. A majority of the commission constitutes a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

Sec. 6. (a) The commission may:

- (1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the commission considers necessary and desirable;
- (2) sue and be sued;
- (3) enter into contracts and agreements;
- (4) make rules necessary for the conduct of its business and the accomplishment of its purposes;
- (5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);
- (6) after its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under section 4(a) of this chapter, or from money transferred from that fund to the commission's treasurer under section 4(b) of this chapter, to any Indiana not-for-profit corporation to promote and encourage conventions, visitors, or tourism in the county; and
- (7) require financial or other reports from any corporation that receives funds under this chapter.

(b) All expenses of the commission shall be paid from the fund established under section 4(a) of this chapter or from money transferred from that fund to the commission's treasurer under section 4(b) of this chapter. The commission shall annually prepare a budget, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6), and submit it to the county fiscal body for its review and approval. An expenditure may not be made under this chapter unless it is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

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Sec. 7. All money coming into possession of the commission shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the commission is subject to audit and supervision by the state board of accounts.

Sec. 8. (a) A member of the commission who knowingly:

- (1) approves the transfer of money to any person or corporation not qualified under law for that transfer; or**
- (2) approves a transfer for a purpose not permitted under law;**

commits a Class D felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses that money for any purpose not permitted under this chapter commits a Class D felony.

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