

## **IC 6-9-19**

### Chapter 19. Elkhart County Innkeeper's Tax

#### **IC 6-9-19-1**

##### **Application of chapter**

Sec. 1. This chapter applies to a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

*As added by P.L. 97-1983, SEC.3. Amended by P.L. 12-1992, SEC.47; P.L. 170-2002, SEC.44.*

#### **IC 6-9-19-2**

##### **Definitions**

Sec. 2. As used in this chapter:

"Fiscal body" and "executive" have the same meanings that are prescribed by IC 36-1-2.

"Gross retail income" and "person" have the same meanings that are prescribed by IC 6-2.5-1.

*As added by P.L. 97-1983, SEC.3. Amended by P.L. 73-1999, SEC.1.*

#### **IC 6-9-19-3**

##### **Tax; authorization; exemptions; rate; payment and collection**

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) inn; or
- (4) tourist cabin;

that has thirty (30) or more rooms for rent and is 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 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 taxes the department of state revenue receives under this section during a month shall be paid, by the end of the next succeeding month, to the county treasurer upon warrants issued by the auditor of state.

*As added by P.L.97-1983, SEC.3. Amended by P.L.108-1987, SEC.17; P.L.62-1990, SEC.8; P.L.67-1997, SEC.22.*

#### **IC 6-9-19-4**

##### **Convention and visitor promotion fund**

Sec. 4. If a tax is levied under section 3 of this chapter, the county treasurer shall establish a convention and visitor promotion fund. He shall deposit in this fund all amounts he receives under that section. Money in this fund may be expended only to promote and solicit conventions, trade shows, and visitors within the county. Money in this fund shall not be expended, directly or indirectly, for any type of capital improvement nor to finance any type of tourist attraction.

*As added by P.L.97-1983, SEC.3.*

#### **IC 6-9-19-5**

##### **Commission for promotion of convention and visitor industry; creation; organization**

Sec. 5. (a) If a tax is levied under section 3 of this chapter, the county executive shall create a commission to promote the development and growth of the convention and visitor industry in the county.

(b) The commission consists of seven (7) members. The county executive shall appoint all members to the commission. Four (4) members must be actively engaged in the management of a hotel or motel in the county. The remainder of the commission members must be members, officers, or directors of a chamber of commerce within the county or of other Indiana not-for-profit corporations organized to promote and solicit conventions, trade shows, or visitors in the county.

(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 county executive shall appoint a qualified person, as provided in

subsection (b), to serve for the remainder of the term.

(d) A member of the commission may be removed for cause by the county executive.

(e) 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.

(f) Each commission member, before entering his duties, shall take an oath of office in the usual form, to be endorsed upon his certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(g) 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.

*As added by P.L.97-1983, SEC.3. Amended by P.L.73-1999, SEC.2.*

#### **IC 6-9-19-6**

##### **Commission; powers; payment of expenses**

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 more frequently, from the fund established under section 4 of this chapter to any Indiana not-for-profit corporation to promote and solicit conventions, trade shows, or visitors in the county; and
- (7) require financial or other reports for any corporation that receives funds under this chapter.

(b) All expenses of the commission shall be paid from the fund established under section 4 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.

*As added by P.L.97-1983, SEC.3. Amended by P.L.62-1990, SEC.9.*

**IC 6-9-19-7****Commission; handling and expenditure of money**

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.

*As added by P.L.97-1983, SEC.3.*

**IC 6-9-19-8****Offenses**

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.

*As added by P.L.97-1983, SEC.3.*