

First Reading: 08/10/05

Passed 8-0: 08/24/05

**COUNTY OF LEHIGH, PENNSYLVANIA  
COMMISSIONERS BILL 2005-77  
SPONSORED BY COMMISSIONERS DERR, DOUGHERTY, ENGLESSION,  
FREDERICKS, GRAMMES, KELLY, McCARTHY & ROMAN  
REQUESTED DATE: JULY 20, 2005  
ORDINANCE NO. 2005- 180**

**IMPOSING A HOTEL ROOM RENTAL TAX  
PURSUANT TO THE COUNTY CODE**

**WHEREAS**, pursuant to P.L. 307 of 2000, 16 P.S. section 13211, et seq., the County of Lehigh enacted a Hotel Room Rental Tax Law, Ordinance 2000-157, as amended by Ordinance 2005-145 (Lehigh Hotel Room Rental Tax Law of 2000); and

**WHEREAS**, the Pennsylvania General Assembly has passed and the Governor has approved Act 12 of 2005, H.B. 157, Printer's Number 2428, which repeals the authorizing legislation for the Lehigh Hotel Room Rental Tax Law of 2000, and has made this repeal effective sixty (60) days from July 5, 2005; and

**WHEREAS**, Act 12 of 2005 has added a new section 1770.8 to the County Code, also effective sixty (60) days from July 5, 2005, which authorizes the County of Lehigh to impose a Hotel Room Rental Tax by Ordinance at a rate of four per cent (4%), and provides for the distribution of such tax monies; and

**WHEREAS**, the money received by the County of Lehigh is to be used for tourism and community development initiatives; and

**WHEREAS**, the County of Lehigh desires to impose the tax authorized by section 1770.8 for distribution and use consistent with the goals of tourism promotion and community development as stated in the authorizing legislation.

**NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY  
THE BOARD OF COMMISSIONERS OF THE COUNTY OF LEHIGH,  
PENNSYLVANIA, THAT:**

1. This Ordinance shall be known as the Lehigh County Hotel Room Rental Tax Ordinance of 2005.

2. DEFINITIONS

The following words and phrases when used in this Ordinance shall have the meanings

given to them in this section unless the context clearly indicates otherwise:

A. "ACT." Act 12 of 2005, House Bill 157 of 2005, Printer's Number 2428, approved by the Governor on July 5, 2005.

B. "CONSIDERATION." Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for a temporary period.

C. "COUNTY." As used in this Ordinance, it shall mean the County of Lehigh, except when such use would be inconsistent with the Act.

D. "HOTEL." A hotel, motel, inn, guest house or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; or any place recognized as a hostelry. The term does not include any portion of a facility that is devoted to persons who have an established permanent residence or a college or university student resident hall or any private campground or any cabins, public campgrounds or other facilities located on state land.

E. "OPERATOR." Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a building to the public for consideration.

F. "PATRON." Any person who pays the consideration for the occupancy of a room or rooms in a hotel.

G. "PERMANENT RESIDENT." Any person who has occupied or has the right to occupy a room or rooms in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

H. "ROOM." A space in a building set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodations provided.

I. "TEMPORARY RESIDENT." Any person who has occupied or has the right to occupy a room or rooms in a hotel as a patron or otherwise for a period of time not exceeding thirty consecutive days.

J. "TRANSACTION." The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanated to the operator under an expressed or implied contract.

K. "TRANSIENT." Any person who obtains an accommodation in any hotel for himself by means of registering at the facility for the temporary occupancy of a room for the personal use of that individual by paying to the operator of the facility a fee in consideration therefore.

3. IMPOSITION OF TAX. Beginning September 4, 2005 there is hereby imposed throughout the County of Lehigh a tax which shall be known as the Hotel Room Rental Tax on the consideration received by each operator of a hotel within the County from each transaction of renting a room or rooms to accommodate temporary residents. The tax shall be collected by the operator from the patron of the room and paid over to the County as hereinafter provided.

4. RATE. The tax imposed under section 3 shall be equal to 4% of the consideration received from each transaction of renting a room or rooms to accommodate temporary, not permanent residents.

#### 5. COLLECTION AND REPORTING OF PAYMENT

A. The tax shall be collected by the operator from the patron and paid over to the County. Operators shall provide a report to the County, even if no tax is due, within twenty (20) days after the end of each month.

B. If any amount of tax due is not remitted to the County by the due date, interest at the rate of 1.5% shall be added for each month or fraction thereof during which the Hotel Room Rental Tax shall remain unpaid or not properly remitted in accordance with this Ordinance, or any rules and regulations promulgated pursuant hereto.

#### 6. VIOLATION

A. Each transaction in which an operator fails to collect the tax from a patron, or each occurrence in which an operator fails to remit the tax collected to the County in accordance with required time limits shall constitute a violation of this Ordinance. A violation shall constitute a summary offense, punishable by a fine not exceeding Six Hundred (\$600.00) Dollars.

B. Any Operator who fails to file a monthly report within ninety (90) days after the end of the month to be reported shall be in violation of this Ordinance. A violation shall constitute a summary offense, punishable by a fine not exceeding Six Hundred (\$600.00) Dollars.

C. All unremitted taxes, fines, penalties and interest may be collected by suit, brought in the name of the County, as provided under applicable state law.

D. All such violations and actions thereunder shall be in addition to any assessment and collection action taken by the County pursuant to Section 5 herein, and any rules and regulations promulgated thereunder.

## 7. DISTRIBUTION

Money received under Section 5(A), and interest accrued shall be distributed as follows:

A. The County Fiscal Officer shall, within ten (10) days of receipt, transmit sixty-eight and three quarters percent (68.75%) of the money collected in the County to the regional tourism promotion agency which serves the Counties of Lehigh and Northampton and which the Board has designated to be eligible for grants from the Department of Community and Economic pursuant to the Act of April 28, 1961 (P.L. 111, No. 50) known as the "Tourist Promotion Law."

B. The County shall retain eighteen and three-quarters percent (18.75%) of the money collected for the further development of tourism facilities and for community development initiatives within the County that enhance regional tourism.

C. The County shall retain twelve and one-half percent (12.5%) of the money collected for the further development of facilities and for marketing purposes within the County to enhance regional tourism.

## 8. REGULATIONS

A. The County Executive is authorized under the Act to establish rules and regulations governing the collection and reporting of the tax, which collection shall not occur more often than monthly and not less than quarterly. Such rules and regulations may establish procedures by which the County, including the Controller, may: investigate operators who are responsible for collecting the tax; enforce collection of the tax and any reports required under this Ordinance; estimate and assess amounts of the tax which are due; impose interest, costs and attorney's fees for the assessment and collection of the tax; and provide notice and administrative hearing on the assessment and collection action by the County Department of Administration, which shall be subject to appeal and review by the appropriate court of the 31st Judicial District of the Commonwealth of Pennsylvania.

B. A public notice shall be published in a newspaper of general circulation in the County and such notice shall:

1. briefly explain the proposed regulation or change therein;
2. inform the public that the full text of the regulation may be viewed on the County website;
3. invite written comments to the Director of the Department of Administration; and
4. state the effective date of the regulation, which shall not be earlier than thirty (30) days after the newspaper publication and web posting required above and the mailing or delivery of notices required in subsection 5.

C. A copy of the public notice shall be mailed or delivered to the Clerk of the Board of Commissioners, the County Solicitor, the Controller, and to all operators who have filed reports within the ninety day period prior to the publication of public notice required herein.

D. The County Executive, or his or her designee, shall provide public notice of the County's intention to promulgate, amend, or repeal any regulation authorized hereunder, except where:

1. The regulation establishes an exemption, relieves a restriction or interprets a self-executing law; or
2. The County Executive finds, for good cause, that the deferral of the effective date of the regulation or change therein is impracticable or contrary to the public interest. Such finding shall be in writing and posted on the County's website.

#### 9. REPEALER

The Lehigh Hotel Room Rental Tax Law of 2000, Ordinance 2000-157, as amended by Ordinance 2005-145, is repealed effective September 3, 2005.

#### 10. SEVERABILITY

Should any part of this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, be declared unconstitutional or otherwise void, then the remaining parts of the Ordinance, rules and regulations shall remain and be in full force and effect.

#### 11. EFFECTIVE DATE

Section 9 of this Ordinance shall take effect on September 3, 2005. The remainder of this Ordinance shall take effect September 4, 2005, but in no case shall the effective date occur before ten (10) days after passage of this Ordinance.

ADOPTED this 24<sup>th</sup> day of August, 2005, by the following vote:

	<u>AYE</u>	<u>NAY</u>
Kurt J. Derr	X	
Percy H. Dougherty	X	
Nicholas E. Englesson (absent)		
Joan L. Fredericks	X	
Marc J. Grammes	X	
James L. Kelly	X	
Daniel K. McCarthy	X	
Sterling H. Raber	X	
Andy Roman	X	

ATTEST: Daryl Bevelin  
CLERK TO THE BOARD OF COMMISSIONERS

APPROVED this 25 day of August, 2005.

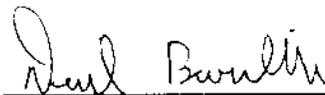
Jane R. Ervin  
Jane R. Ervin  
High County Executive

ENACTED this 25<sup>th</sup> day of August, 2005.

COUNTY OF LEHIGH ORDINANCE 2005 – NO. 180

**CERTIFICATION**

I, DAVID BARILLA, Clerk to the Board of Commissioners of Lehigh County, do hereby certify that the attached is a true and correct copy of the ordinance adopted at a regular meeting of the Commissioners of Lehigh County held on the 24<sup>th</sup> day of August, 2005, and approved on the 25<sup>th</sup> day of August, 2005 by the Lehigh County Executive, and effective on the 4<sup>th</sup> day of September, 2005.



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DAVID BARILLA, Clerk  
Board of Commissioners