

Section 2. Definitions. As used in this Title, the following terms shall have the following meanings:

A. "Hotel" or "Motel" shall mean and include any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast", inns, cabins, cottages, campgrounds, tourist homes and convention centers.

B. "Permanent Resident" shall mean a person occupying any room or rooms in a hotel or motel for at least thirty consecutive days.

Section 3. Imposition of Hotel and Motel Occupancy Tax.

A. There is hereby imposed a hotel and motel occupancy tax in the County of Nassau at a rate of three-fourths of one percent of the per diem rental rate for each room, provided, however, that such tax shall not be applicable to a permanent resident of such hotel or motel.

B. Such tax shall be collected and administered by the County Treasurer by such means and in such manner as other taxes which are now collected and administered.

C. Within thirty days after the effective date of this Title, or in the case of owners commencing business after such effective date, within ten days after such commencement or opening, every owner shall file with the County Treasurer a certificate of registration in a form prescribed by the County Treasurer. The County Treasurer shall issue to each owner a certificate of authority empowering such owner to collect the tax from the occupant thereof. The County Treasurer shall issue to each owner a duplicate certificate for each additional hotel or motel owned by such owner. Each certificate or duplicate shall state the hotel or motel to which it was applicable as well as the sales tax number for the hotel or motel. Such certificates of authority shall be prominently displayed by the owner in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and non-transferable and shall be surrendered to the County Treasurer upon the cessation of business at the hotel or motel

named or upon its sale or transfer. Failure to register with the County Treasurer as required by this Title shall result in the imposition of a fine of one hundred dollars for each day of non-registration for each hotel or motel not so registered.

D. Such tax shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the County of Nassau imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge.

E. The owner of the hotel or motel room occupied or the person entitled to be paid the rent or charge for the hotel or motel room occupied shall file returns with and make payment of the tax to the County Treasurer on a quarterly basis on the first day of each February, May, August and November during the effective period of this Title. Such returns shall be made on forms provided by the County Treasurer.

F. The owner's books and records relating to the returns as set forth in Subdivision E above may be requested by the County Treasurer for auditing purposes.

G. The imposition of the hotel and motel occupancy tax as authorized by this Title shall expire on July thirty-first, nineteen hundred ninety-six.

H. The County Treasurer is hereby authorized to promulgate any rules and regulations deemed necessary to effectuate the purposes and provisions of this Title and consistent therewith.

Section 4. Contract with Tourism Promotion Agency. The County of Nassau shall enter into a contract with a tourism promotion agency to administer programs designed to develop, encourage, solicit and promote convention business and tourism within the county. The promotion of convention business and tourism shall include any service, function or activity, whether or not performed, sponsored or advertised by the tourism promotion agency with the intent to attract transient guests to the county.

Section 5. Disposition of Tax Revenues. All revenues resulting from the imposition of the tax payable hereunder shall be paid into the General Fund of the County of Nassau and shall be distributed as appropriated by the Board of Supervisors pursuant to the following formula:

A. Sixty-six and two-thirds percent of all revenues collected shall be delivered to the tourism promotion agency which the County of Nassau contracts with pursuant to Section 4 of the Title.

B. Thirty-three and one-third percent of all revenues collected shall be utilized by the County of Nassau in support of cultural programs and activities relevant to the continuation and enhancement of the tourism industry in the following manner:

1. Twenty-one percent of all revenues collected shall be used for the care, maintenance, and interpretation for the general public of the historic structures, sites and unique natural areas that are managed by the Nassau County Department of Recreation and Parks. All sites and activities so funded shall be opened to tourists on a regular and predictable basis.

2. Twelve and one-third percent of all revenues collected shall be used for ongoing operating or program support of those non-profit museums and cultural organizations in Nassau County so designated by the County Executive or by any County department, agency or office authorized by the County Executive to make such designation, subject to final approval of the Board of Supervisors.

3. Schedules of availability of all historic and cultural activities and events funded from any part of these revenues shall be provided to the aforementioned tourist promotion agency which is contracted with by the County of Nassau so as to enhance tourism promotion and tourist visitation.

Section 6. Exemptions. This Title shall not authorize the imposition of the hotel and motel occupancy tax upon any transaction, by or with any of the following:

A. The State of New York, or any public corporation (including a public corporation created pursuant to agreement or contract with another state or the dominion of Canada), improvement district or other political subdivision of the state.

B. The United States of America, insofar as it is immune from taxation.

C. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

Section 7. Judicial Review.

A. Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the Civil Practice Law and Rules if application therefor is made to the supreme court within thirty-days after the giving of the notice of such final determination, provided,

however, that any such proceeding under article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless:

1. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of the State of New York as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

2. At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interest and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

B. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the County Treasurer, and the County Treasurer shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the County Treasurer in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

C. Except of the case of wilfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the

date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

D. Any person failing to file a return or to pay any tax to the County Treasurer within the time required by this Title shall be subject to a penalty of five percentum of the amount of the tax due; plus interest at the rate of one percentum of such tax for each month or fraction thereof of delay commencing the first month after such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues pursuant to this Title.

Section 8. Severability. If any clause, sentence, paragraph, subdivision, section or part of this Title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

(Title 24 added by Local Law No. 12-1994, in effect November 1, 1994.)