

House Bill 780

By: Representatives Buckner of the 95th, Dodson of the 94th, Seay of the 93rd, Jordan of the 96th and Barnes of the 97th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the excise tax on the furnishing for value to the public of any rooms, lodgings, or
3 accommodations, so as to change certain provisions regarding the levy and collection of such
4 tax; to provide authorization with certain conditions for certain counties and municipalities
5 to levy such tax; to change certain provisions authorizing certain counties and municipalities
6 to levy such tax under certain conditions; to provide for requirements and limitations with
7 respect thereto; to provide for related matters; to provide an effective date; to repeal
8 conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to the
12 excise tax on the furnishing for value to the public of any rooms, lodgings, or
13 accommodations, is amended by striking paragraphs (1) and (2) of subsection (a) of Code
14 Section 48-13-51, relating to the levy and collection of certain excise taxes, and inserting in
15 their place new paragraphs (1) and (2) to read as follows:

16 "(a)(1)(A) The governing authority of each municipality in this state may levy and
17 collect an excise tax upon the furnishing for value to the public of any room or rooms,
18 lodgings, or accommodations furnished by any person or legal entity licensed by, or
19 required to pay business or occupation taxes to, the municipality for operating a hotel,
20 motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which
21 rooms, lodgings, or accommodations are regularly furnished for value. Within the
22 territorial limits of the special district located within the county, each county in this
23 state may levy and collect an excise tax upon the furnishing for value to the public of
24 any room or rooms, lodgings, or accommodations furnished by any person or legal
25 entity licensed by, or required to pay business or occupation taxes to, the county for
26 operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist

1 cabin, campground, or any other place in which rooms, lodgings, or accommodations
2 are regularly furnished for value. The provisions of this Code section shall control over
3 the provisions of any local ordinance or resolution to the contrary enacted pursuant to
4 Code Section 48-13-53 and in effect prior to July 1, 1998. Any such ordinance shall
5 not be deemed repealed by this Code section but shall be administered in conformity
6 with this Code section.

7 (B)(i) The excise tax shall be imposed on any person or legal entity licensed by or
8 required to pay a business or occupation tax to the governing authority imposing the
9 tax for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground,
10 or any other place in which rooms, lodgings, or accommodations are regularly
11 furnished for value and shall apply to the furnishing for value of any room, lodging,
12 or accommodation. Every person or entity subject to a tax levied as provided in this
13 Code section shall, except as provided in this Code section, be liable for the tax at the
14 applicable rate on the lodging charges actually collected or, if the amount of taxes
15 collected from the hotel or motel guest is in excess of the total amount that should
16 have been collected, the total amount actually collected must be remitted.

17 (ii) Any tax levied as provided in this Code section is also imposed upon every
18 person or entity who is a hotel or motel guest and who receives a room, lodging, or
19 accommodation that is subject to the tax levied under this Code section. Every such
20 guest subject to the tax levied under this Code section shall pay the tax to the person
21 or entity providing the room, lodging, or accommodation. The tax shall be a debt of
22 the person obtaining the room, lodging, or accommodation to the person or entity
23 providing such room, lodging, or accommodation until it is paid and shall be
24 recoverable at law by the person or entity providing such room, lodging, or
25 accommodation in the same manner as authorized for the recovery of other debts.
26 The person or entity collecting the tax from the hotel or motel guest shall remit the tax
27 to the governing authority imposing the tax, and the tax remitted shall be a credit
28 against the tax imposed by division (i) of this subparagraph on the person or entity
29 providing the room, lodging, or accommodation.

30 (C)(i) The tax authorized by this Code section shall not apply to charges made for
31 any rooms, lodgings, or accommodations provided to any persons who certify that
32 they are staying in such room, lodging, or accommodation as a result of the
33 destruction of their home or residence by fire or other casualty. The tax authorized by
34 this Code section shall apply to the fees or charges for any rooms, lodgings, or
35 accommodations during the first ten days of continuous occupancy and shall not apply
36 to charges imposed for any continuous occupancy thereafter. The tax authorized by
37 this Code section shall not apply to charges made for the use of meeting rooms and

1 other such facilities or to any rooms, lodgings, or accommodations provided without
2 charge.

3 (ii) The tax authorized by this Code section shall not apply to the charges for any
4 rooms, lodgings, or accommodations furnished for a period of one or more days for
5 use by Georgia state or local governmental officials or employees when traveling on
6 official business. Notwithstanding the availability of any other means of identifying
7 the person as a state or local government official or employee, whenever a person
8 pays for any rooms, lodgings, or accommodations with a state or local government
9 credit or debit card, such rooms, lodgings, or accommodations shall be deemed to
10 have been furnished for use by a Georgia state or local government official or
11 employee traveling on official business for purposes of the exemption provided by
12 this division.

13 (D) Except as provided in paragraphs (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4),
14 (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), and (5.2) of this subsection, no tax
15 levied pursuant to this Code section shall be levied or collected at a rate exceeding 3
16 percent of the charge to the public for the furnishings.

17 (2) A county or municipality levying a tax as provided in paragraph (1) of this subsection
18 shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of
19 promoting tourism, conventions, and trade shows a percentage of the total taxes collected
20 under this Code section which is not less than the percentage of such tax collections
21 expended for such purposes during the immediately preceding fiscal year. In addition,
22 if during such immediately preceding fiscal year any portion of such tax receipts was
23 expended for such purposes through a grant to or a contract or contracts with the state,
24 a department of state government, a state authority, or a private sector nonprofit
25 organization, then in each fiscal year beginning on or after July 1, 1987, at least the same
26 percentage shall be expended through a contract or contracts with one or more such
27 entities for the purpose of promoting tourism, conventions, and trade shows. The
28 expenditure requirements of this paragraph shall cease to apply to a county or
29 municipality which levies a tax at a rate in excess of 3 percent, as authorized under
30 paragraphs (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5),
31 (4.6), (4.7), (5), (5.1), and (5.2) of this subsection; and in such case the expenditure
32 requirements of such paragraph of this subsection pursuant to which such tax is levied
33 shall apply instead."

SECTION 2.

Said article is further amended by striking paragraph (3.4) of subsection (a) of Code Section 48-13-51, relating to the levy and collection of certain excise taxes, and inserting in its place a new paragraph (3.4) to read as follows:

"(3.4) Reserved. Notwithstanding the provisions of paragraph (1) of this subsection, a county (within the territorial limits of the special district located within the county) or municipality may levy a tax under this Code section at a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph (3)) an amount equal to the amount by which the total taxes collected under this Code section exceed the taxes which would be collected at a rate of 3 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (C) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes, if a written agreement to provide such support was in effect on January 1, 1987, and if such facility is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes if construction of such facility is funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state funds; (E) supporting a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and if such facility was substantially completed and in operation prior to December 31, 1993; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for the purposes specified in subparagraphs(C) and (D) of this paragraph may be so expended in any otherwise lawful manner. In addition to the amounts otherwise required to be expended under this paragraph, a county or municipality levying a tax pursuant to this paragraph shall further expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to 16 2/3 percent of the total taxes collected at the rate of 6 percent for promoting tourism,

1 conventions, and trade shows. Amounts so expended shall be expended only through a
 2 contract or contracts with the state, a department of state government, a state authority, a
 3 convention and visitors bureau authority created by local Act of the General Assembly for
 4 a municipality, or a private sector nonprofit organization, or through a contract or contracts
 5 with some combination of such entities."

6 SECTION 3.

7 Said article is further amended by striking paragraph (6) of subsection (a) of Code Section
 8 48-13-51, relating to the levy and collection of certain excise taxes, and inserting in its place
 9 a new paragraph (6) to read as follows:

10 "(6) At no time shall a county or municipality levy a tax under more than one paragraph
 11 of this subsection. Following the termination of a tax under paragraph (3.1), (3.2), (3.3),
 12 (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2) of this
 13 subsection, any county or municipality which has levied a tax pursuant to paragraph (3.1),
 14 (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2)
 15 of this subsection shall be authorized to levy a tax in the manner and at the rate authorized
 16 by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not
 17 thereafter be authorized to again levy a tax under paragraph (3.1), (3.2), (3.3), (3.4), (3.5),
 18 (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2) of this subsection."

19 SECTION 4.

20 Said article is further amended by striking paragraphs (9) and (10) of subsection (a) of Code
 21 Section 48-13-51, relating to the levy and collection of certain excise taxes, and inserting in
 22 their places new paragraphs (9) and (10) to read as follows:

23 "(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (3), (3.1),
 24 (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1),
 25 or (5.2) of this subsection shall prior to the imposition of the tax (if the tax is imposed
 26 on or after July 1, 1990) and prior to each fiscal year thereafter in which the tax is
 27 imposed adopt a budget plan specifying how the expenditure requirements of this Code
 28 section will be met. Prior to the adoption of such budget plan, the county or
 29 municipality shall obtain from the authorized entity with which it proposes to contract
 30 to meet the expenditure requirements of this Code section a budget for expenditures to
 31 be made by such organization; and such budget shall be made a part of the county or
 32 municipal budget plan.

33 (B) The determination as to whether a county or municipality has complied with the
 34 expenditure requirements of paragraph (2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4),
 35 (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2) of this subsection shall be

1 made for each fiscal year beginning on or after July 1, 1987, as of the end of each fiscal
 2 year, shall be prominently reflected in the audit required under Code Section 36-81-7,
 3 and shall be determined by: (i) calculating the amount of funds expended or
 4 contractually committed for expenditure as provided in paragraph (2), (3), (3.1), (3.2),
 5 (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or
 6 (5.2) of this subsection, whichever is applicable, during the fiscal year; and (ii)
 7 expressing such amount as a percentage of tax receipts under this Code section during
 8 such fiscal year. A county or municipality contractually expending funds to meet the
 9 expenditure requirements of paragraph (2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4),
 10 (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2) of this subsection shall
 11 require the contracting party to provide audit verification that the contracting party
 12 makes use of such funds in conformity with the requirements of this subsection.

13 (10) Nothing in this article shall be construed to limit the power of a county or
 14 municipality to expend more than the required amounts, or all, of the total taxes collected
 15 under this Code section for the purposes described in paragraph (2), (3), (3.1), (3.2), (3.3),
 16 (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2) of this
 17 subsection."

18 **SECTION 5.**

19 This Act shall become effective upon its approval by the Governor or upon its becoming law
 20 without such approval.

21 **SECTION 6.**

22 All laws and parts of laws in conflict with this Act are repealed.