

House Bill 1415 (AS PASSED HOUSE AND SENATE)

By: Representatives Channell of the 77<sup>th</sup>, Parrish of the 102<sup>nd</sup>, Royal of the 140<sup>th</sup>, McClinton of the 59<sup>th</sup>, Post 1, and Wix of the 33<sup>rd</sup>, Post 1

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 rooms, lodgings, and accommodations, so as to change certain  
3 provisions regarding compliance audits regarding such tax; to change certain provisions  
4 regarding conditions of continuing authorization to impose such tax; to provide for a  
5 performance review board; to provide for appointment, powers, duties, authority and  
6 termination of the board; to provide for powers, duties, and authority of the state revenue  
7 commissioner, the commissioner of community affairs, and the Department of Community  
8 Affairs; to amend Code Section 36-81-8 of the Official Code of Georgia Annotated, relating  
9 to annual local government finance reports, so as to provide for additional reporting  
10 requirements for any unit of local government which levies a tax pursuant to Article 3 of  
11 Chapter 13 of Title 48; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to the  
15 excise tax on rooms, lodgings, and accommodations, is amended by striking subparagraph  
16 (a)(9)(B) of Code Section 48-13-51, relating to compliance audits regarding the excise tax  
17 on rooms, lodgings, and accommodations, and inserting in its place a new subparagraph  
18 (a)(9)(B) to read as follows:

19 " (B)(i) The determination as to whether a county or municipality has complied with  
20 the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4),  
21 (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  
22 subsection shall be made for each fiscal year beginning on or after July 1, 1987, as of  
23 the end of each fiscal year, shall be prominently reflected in the audit required under  
24 Code Section 36-81-7, and shall be determined by disclose:

25 ~~(i) calculating the~~ (I) The amount of funds expended or contractually committed for  
26 expenditure as provided in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5),

1 (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  
 2 subsection, whichever is applicable, during the fiscal year; ~~and~~

3 ~~(ii) expressing such amount as a percentage (II) The amount of tax receipts under~~  
 4 ~~this Code section during such fiscal year; and~~

5 ~~(III) Expenditures as a percentage of tax receipts.~~

6 (ii) A county or municipality contractually expending funds to meet the expenditure  
 7 requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4),  
 8 (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), or (5.2) of this subsection shall  
 9 require the contracting party to provide audit verification that the contracting party  
 10 makes use of such funds in conformity with the requirements of this subsection. If  
 11 the audit required by Code Section 36-81-7 identifies noncompliance with the  
 12 applicable expenditure requirements of this Code section, such noncompliance shall  
 13 be reported in accordance with paragraph (2) of subsection (c) of Code Section  
 14 36-81-7. The state auditor shall report all instances of noncompliance with this  
 15 subparagraph noted in the audit report to the Department of Community Affairs upon  
 16 completion of the report review required by paragraph (2) of subsection (d) of Code  
 17 Section 36-81-7. The state auditor shall furnish a copy of all documents submitted  
 18 by the local government or the local government's auditor pertaining to  
 19 noncompliance with this subparagraph to the Department of Revenue. The  
 20 Department of Community Affairs shall submit a copy of such documents to the  
 21 performance review board."

## 22 SECTION 2.

23 Said article is further amended by striking Code Section 48-13-56, relating to conditions of  
 24 continuing authorization to impose the excise tax on rooms, lodgings, and accommodations,  
 25 and inserting in its place a new Code Section 48-13-56 to read as follows:

26 "48-13-56.

27 Each county or municipality imposing a tax as authorized by this article shall, as a  
 28 condition of continuing authorization to impose the tax, annually file with the Department  
 29 of Community Affairs a report specifying the rate of taxation and amounts collected and  
 30 expended pursuant to this article. Such report shall include the schedules specified under  
 31 subparagraph (b)(1)(B) of Code Section 36-81-8 and shall be filed in such form and at such  
 32 times as may be specified by rule of the Department of Community Affairs."

**SECTION 3.**

Said article is further amended by adding a new Code section immediately following Code Section 48-13-56, to be designated Code Section 48-13-56.1, to read as follows:

"48-13-56.1.

(a)(1) There is created the Hotel Motel Tax Performance Review Board which shall consist of 11 members.

(2) The commissioner of community affairs shall appoint five persons to serve as members of the performance review board as follows:

(A) A designee of the commissioner;

(B) A representative of the private sector tourism industry;

(C) A representative of municipal government;

(D) A representative of county government; and

(E) A representative of a tourism marketing organization.

(3) The Governor shall appoint one member of the board.

(4) The Speaker of the House of Representatives shall appoint one member of the board.

(5) The President Pro Tempore of the Senate shall appoint one member of the board.

(6) The state auditor shall appoint one member of the board.

(7) The commissioner of industry, trade, and tourism shall appoint one member of the board.

(8) The commissioner of revenue shall appoint one member of the board.

(b)(1) The initial members of the board shall be appointed not later than August 1, 2004.

The member of the board who is appointed under subparagraph (a)(2)(A) of this Code section shall serve for a term of office of five years. Members of the board who are appointed under subparagraphs (a)(2)(B), (a)(2)(C), (a)(2)(D), and (a)(2)(E) of this Code section shall serve for terms of office of three years each. Members of the board who are appointed under paragraphs (3), (4), and (5) of subsection (a) of this Code section shall serve for terms of three years each. Members of the board who are appointed under paragraphs (6), (7), and (8) of subsection (a) of this Code section shall serve for terms of office of five years each. Members of the board shall serve for the terms of office specified in this subsection and until their respective successors are appointed and qualified. Members of the board may be reappointed to the board upon the expiration of their terms of office if they otherwise continue to meet the qualifications for such office.

(2) If a vacancy occurs in the membership of the board, the appropriate appointing entity shall appoint a successor for the remainder of the unexpired term and until a successor is appointed and qualified.

(c) It shall be the duty of the performance review board to make a thorough and complete investigation of any complaint with respect to all actions of a county, municipality, or any

1 other entity regarding its expenditure of funds received from a tax under this article and  
 2 such county's, municipality's, or other entity's compliance with state law and regulations.  
 3 Complaints may be received from taxpayers, local governments, innkeepers, or private  
 4 sector nonprofit organizations. All complaints shall be received by the department by  
 5 June 1 in order to be heard the following year. The performance review board shall meet  
 6 annually from September 1 through December 1. The department shall send a notice to all  
 7 interested parties of the meeting place and time. The performance review board shall issue  
 8 a written report of its findings which shall include such evaluations, judgments, and  
 9 recommendations as it deems appropriate.

10 (d) The findings of the report of the review board under subsection (c) of this Code section  
 11 shall be transmitted to the commissioner of community affairs within 60 calendar days of  
 12 hearing the complaint. The commissioner of community affairs shall have 30 calendar  
 13 days to review the findings of the performance review board. If the commissioner of  
 14 community affairs determines that remedial action is necessary, the subject of the  
 15 complaint shall be issued a notice by certified mail, return receipt requested, or statutory  
 16 overnight delivery and shall be given a period of 90 calendar days to take the necessary  
 17 remedial action with respect to such findings. In the event that such remedial action does  
 18 not occur within the specified period, the commissioner of community affairs shall  
 19 immediately notify the state revenue commissioner, and the state revenue commissioner  
 20 shall be authorized to take appropriate action to enforce compliance with such remedial  
 21 action, up to and including termination of the tax.

22 (e) The commissioner of community affairs shall promulgate such rules and regulations  
 23 as may be necessary for the administration of this Code section."

#### 24 SECTION 4.

25 Code Section 36-81-8 of the Official Code of Georgia Annotated, relating to annual local  
 26 government finance reports, is amended by striking subsection (b) and inserting in its place  
 27 a new subsection (b) to read as follows:

28 "(b)(1)(A) Each unit of local government shall submit an annual report of local  
 29 government finances to the Department of Community Affairs. The report shall include  
 30 the revenues, expenditures, assets, and debts of all funds and agencies of the local  
 31 government, and other such information as may be reasonably requested by the  
 32 department.

33 (B) Each unit of local government which levies a tax pursuant to Article 3 of  
 34 Chapter 13 of Title 48 shall also submit a schedule of all revenues therefrom which are  
 35 expended for the promotion of tourism, conventions, and trade shows or any other  
 36 tourism related purpose which is specified under Code Section 48-13-51. Such

1 schedule shall identify both the project or projects involved and the contracted entity  
2 involved in each such expenditure.

3 (2) Each local independent authority shall submit an annual report of indebtedness to the  
4 Department of Community Affairs. Such report shall include the revenues, expenditures,  
5 assets, and debts of all funds of the local independent authority and shall describe any  
6 actions taken by such local independent authority to incur indebtedness.

7 (3) The local government finances report and the local independent authority  
8 indebtedness report shall be filed on forms promulgated by the department and shall be  
9 submitted within the requested time periods established by the department."

10 **SECTION 5.**

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