

House Bill 765

By: Representative Heard of the 114th

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 consolidated governments to levy
5 such tax; to change certain provisions authorizing certain counties and municipalities to levy
6 such tax under certain conditions; to provide for requirements and limitations with respect
7 thereto; to provide for related matters; to provide an effective date; to repeal conflicting laws;
8 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 (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7),
14 (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~and (5.2)~~, and (5.3) of this
15 subsection, no tax levied pursuant to this Code section shall be levied or collected at a
16 rate exceeding 3 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 (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4),
31 (4.5), (4.6), (4.7), (5), (5.1), ~~and (5.2)~~, and (5.3) of this subsection; and in such case the
32 expenditure requirements of such paragraph of this subsection pursuant to which such tax
33 is levied shall apply instead."

SECTION 2.

Said article is further amended in subsection (a) of Code Section 48-13-51, relating to the levy and collection of certain excise taxes, by adding a new paragraph immediately following paragraph (5.2), to be designated paragraph (5.3), to read as follows:

"(5.3) Notwithstanding the provisions of paragraph (1) of this subsection, a consolidated government (within the territorial limits of the special district located within the county) which consolidated government was established after January 1, 1990, in a county in which an authority created by local Act of the General Assembly after January 1, 1988, and which authority was established for the purpose of the development and promotion of public projects for cultural growth, public welfare, education, and recreation, including the acquisition and construction of a building or building and related facilities may levy a tax under this Code section at a rate of 8 percent. A consolidated government levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to 75 percent of the total taxes collected at the rate of 8 percent for the purpose of:

(A) Promoting tourism, conventions, and trade shows;

(B) Funding, supporting, acquiring, constructing, renovating, improving, and equipping buildings, structures, and facilities, including but not limited to a conference center, exhibit hall, performing arts center, or any combination, for convention, trade show, athletic, musical, theatrical, cultural, civic, and performing arts purposes and other similar activities; and also supporting, operating, maintaining, and promoting such facility which is owned, operated, or leased by or to the local civic center authority; or

(C) For some combination of such purposes.

In addition to the amounts otherwise required to be expended under this paragraph, a consolidated government 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 12.5 percent of the total taxes collected at the rate of 8 percent for acquiring, constructing, renovating, improving, maintaining, and equipping buildings or structures of the facility which is owned, operated, or leased by or to the local civic center authority. Amounts so expended shall be expended only through a contract or contracts with the state; a department of state government; a state authority; an authority created by local Act of the General Assembly for a municipality, county, or consolidated government; or a private sector nonprofit organization; or through a contract or contracts with some combination of such entities."

1 (4.7), (5), (5.1), ~~or (5.2)~~, or (5.3) of this subsection, whichever is applicable, during the
 2 fiscal year; and (ii) expressing such amount as a percentage of tax receipts under this
 3 Code section during such fiscal year. A county or municipality contractually expending
 4 funds to meet the expenditure requirements of paragraph (2), (2.1), (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), or (5.3) of this subsection shall require the contracting party to provide audit
 7 verification that the contracting party makes use of such funds in conformity with the
 8 requirements of this subsection.

9 (10) Nothing in this article shall be construed to limit the power of a county or
 10 municipality to expend more than the required amounts, or all, of the total taxes collected
 11 under this Code section for the purposes described in paragraph (2), (2.1), (3), (3.1), (3.2),
 12 (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 (5.2)~~,
 13 or (5.3) of this subsection."

14 **SECTION 5.**

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

17 **SECTION 6.**

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