

House Bill 1094

By: Representatives Mills of the 25<sup>th</sup>, Stephens of the 164<sup>th</sup>, Parrish of the 156<sup>th</sup>, Channell of the 116<sup>th</sup>, Royal of the 171<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and  
2 taxation, so as to provide for the comprehensive revision, modernization, and simplification  
3 of the hotel motel tax; to provide for a short title; to provide for definitions; to provide for  
4 special districts; to provide for procedures, conditions, and limitations for the imposition,  
5 collection, and expenditure of proceeds of the tax; to provide for powers, duties, and  
6 authority of county and municipal governing authorities; to provide for powers, duties, and  
7 authority of the state revenue commissioner; to provide for duties and responsibilities of  
8 innkeepers; to provide for criminal penalties; to amend Titles 12 and 36 of the Official Code  
9 of Georgia Annotated, relating to conservation and natural resources and local government,  
10 respectively, so as to provide for conforming changes; to provide for related matters; to  
11 repeal conflicting laws; and for other purposes.

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

13 **SECTION 1.**

14 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
15 amended by revising Code Section 48-8-6, relating to limitations with respect to certain  
16 taxes, as follows:

17 "48-8-6.

18 (a) Except as otherwise authorized by the General Assembly, no county, municipality,  
19 school district, or other political subdivision of this state shall impose, levy, or collect a  
20 gross receipts tax, sales tax, use tax, or tax on amusement admission or services included  
21 in this article.

22 (b) There shall not be imposed in any jurisdiction in this state or on any transaction in this  
23 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.  
24 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and  
25 use tax which is levied in an area consisting of less than the entire state, however  
26 authorized, including such taxes authorized by or pursuant to constitutional amendment,

1 except that the following taxes shall not count toward or be subject to such 2 percent  
2 limitation:

3 (1) A sales and use tax for educational purposes exempted from such limitation under  
4 Article VIII, Section VI, Paragraph IV of the Constitution;

5 (2) Any tax levied for purposes of a metropolitan area system of public transportation,  
6 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
7 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
8 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
9 provided, however, that the exception provided for under this paragraph shall only apply  
10 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
11 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay  
12 project or projects, a sewer capital outlay project or projects, a water and sewer capital  
13 outlay project or projects, water and sewer projects and costs as defined under paragraph  
14 (3) of Code Section 48-8-200, or any combination thereof and with respect to which the  
15 county has entered into an intergovernmental contract with a municipality, in which the  
16 average waste-water system flow of such municipality is not less than 85 million gallons  
17 per day, allocating proceeds to such municipality to be used solely for water and sewer  
18 projects and costs as defined under paragraph (3) of Code Section 48-8-200. The  
19 exception provided for under this paragraph shall apply only during the period the tax  
20 under said subparagraph (a)(1)(D) is in effect. The exception provided for under this  
21 paragraph shall not apply in any county in which a tax is being imposed under Article 2A  
22 of this chapter;

23 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the  
24 amount in excess of the initial 1 percent sales and use tax and in the event of a newly  
25 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent  
26 sales and use tax; and

27 (4) A sales and use tax levied under Article 4 of this chapter.

28 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales  
29 and use tax would result in a tax rate in excess of that authorized by this subsection, then  
30 such otherwise authorized tax may not be imposed.

31 (c) Where the exception specified in paragraph (2) of subsection (b) of this Code section  
32 applies, the tax imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 shall not  
33 apply to:

34 (1) Reserved; and

35 (2) The sale of motor vehicles.

36 ~~(c.1) Where the exception specified in paragraph (2) of subsection (b) of this Code section~~  
37 ~~applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed under~~

1 ~~paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall~~  
 2 ~~not exceed 14 percent.~~

3 (d) Notwithstanding any law or ordinance to the contrary, any tax, charge, or fee levied  
 4 by any political subdivision of this state and applicable to mobile telecommunications  
 5 services, as defined in Section 124(7) of the federal Mobile Telecommunications Sourcing  
 6 Act, 4 U.S.C. Section 124(7), shall apply only if the customer's place of primary use is  
 7 located within the boundaries of the political subdivision levying such local tax, charge,  
 8 or fee. For purposes of this subsection, the provisions of Code Section 48-8-13 shall apply  
 9 in the same manner and to the same extent as such provisions apply to the tax levied by  
 10 Code Section 48-8-1 on mobile telecommunications services. This subsection shall not be  
 11 construed to authorize the imposition of any tax, charge, or fee."

## 12 **SECTION 2.**

13 Said title is further amended by revising Code Section 48-8-201, relating to distribution of  
 14 proceeds of the water and sewer projects and costs tax, as follows:

15 "48-8-201.

16 (a)(1) In any county in which the provisions of paragraph (2) of subsection (b) of Code  
 17 Section 48-8-6 will be applicable if the tax under Part 1 of Article 3 of this chapter is  
 18 imposed pursuant to subparagraph (a)(1)(D) of Code Section 48-8-111 in whole or in part  
 19 for the purpose or purposes of a water capital outlay project or projects, a sewer capital  
 20 outlay project or projects, a water and sewer capital outlay project or projects, or a  
 21 combination of such projects, the governing authority of a municipality, the majority of  
 22 which is located wholly or partially in such county, may deliver or mail a written copy  
 23 of a resolution of such municipal governing authority calling for the imposition by the  
 24 county of the tax under Part 1 of Article 3 of this chapter pursuant to subparagraph  
 25 (a)(1)(D) of Code Section 48-8-111 in whole or in part for the purpose or purposes of a  
 26 water capital outlay project or projects, a sewer capital outlay project or projects, a water  
 27 and sewer capital outlay project or projects, water and sewer projects and costs, or any  
 28 combination thereof.

29 (2) Within ten days following the date of delivery of such resolution to the governing  
 30 authority of such county, the governing authorities of such county and municipality may  
 31 enter into an intergovernmental contract as authorized by Article IX, Section III of the  
 32 Constitution which shall specify the allocation of the proceeds of the tax between such  
 33 county and municipality according to the ratio the population of such municipality bears  
 34 to the population of such county according to the United States decennial census of 2000  
 35 or any future such census so that such municipality's share of the total net proceeds shall  
 36 be the percentage of the total population of such municipality divided by the total

1 population of such county. Such intergovernmental contract shall specify that the  
2 proceeds allocated to the municipality shall only be expended for water and sewer  
3 projects and costs.

4 (3) Immediately following the entering into of the intergovernmental contract under  
5 paragraph (2) of this subsection, the governing authority of such county may select the  
6 next practicable date authorized under Code Section 21-2-540 for conducting a special  
7 election on the question of imposing such tax under Part 1 of Article 3 of this chapter.  
8 The governing authority of such county shall notify the county election superintendent  
9 by forwarding to the superintendent a copy of the resolution of the governing authority  
10 of such municipality calling for the imposition of the tax in such county. Following  
11 receipt of the resolution, the election superintendent shall issue the appropriate call for  
12 an election for the purpose of submitting the question of the imposition of the tax to the  
13 voters of such county in the manner specified in Code Section 48-8-111. If approved in  
14 such referendum, the tax shall be levied and imposed as provided in this Code section and  
15 Part 1 of Article 3 of this chapter.

16 (b) If the governing authority of the county takes no action under paragraph (2) or (3) of  
17 subsection (a) of this Code section, it shall provide notice thereof by resolution to the  
18 governing authority of the municipality not later than ten days following the date of  
19 delivery of such municipality's resolution to the county under subsection (a) of this Code  
20 section. Upon receipt by the governing authority of the municipality of such county  
21 resolution or if timely notice of no action is not provided by the governing authority of the  
22 county to the governing authority of the municipality or if the county referendum is  
23 conducted but is not approved by the voters, the governing authority of any municipality  
24 in this state may, subject to the requirement of referendum approval and the other  
25 requirements of this article, immediately commence proceedings to seek to impose within  
26 the municipality a special sales and use tax for a limited period of time for the purpose of  
27 funding water and sewer projects and costs. Any tax imposed under this article shall be at  
28 the rate of 1 percent. Except as otherwise provided in this article, a tax imposed under this  
29 article shall correspond to the tax imposed by Article 1 of this chapter.

30 (c) In the event a tax imposed under this article is imposed only by the municipality:

31 (1) No item or transaction which is not subject to taxation under Article 1 of this chapter  
32 shall be subject to a tax imposed under this article, except that a tax imposed under this  
33 article shall apply to:

34 (A) Sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2)  
35 of Code Section 48-8-2;

36 (B) The sale of food and beverages as provided for in division (57)(D)(i) of Code  
37 Section 48-8-3;

1 (C) The sale of natural or artificial gas used directly in the production of electricity  
 2 which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3;  
 3 and

4 (D) The furnishing for value to the public of any room or rooms, lodgings, or  
 5 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;  
 6 and

7 (2) A tax imposed under this article shall not apply to the sale of motor vehicles.

8 ~~(d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under~~  
 9 ~~paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall~~  
 10 ~~not exceed 14 percent."~~

### 11 SECTION 3.

12 Said title is further amended by revising Article 3 of Chapter 13, relating to excise tax on  
 13 rooms, lodgings, and accommodations, in its entirety as follows:

#### 14 "ARTICLE 3

15 48-13-50.

16 This article shall be known and may be cited as the 'Hotel Motel Tax Act.'

17 48-13-51.

18 It is declared to be the purpose and intent of the General Assembly that funds collected  
 19 under this article be made available for the purposes of promoting, attracting, stimulating,  
 20 and developing conventions and tourism in the counties and municipalities and not for the  
 21 provision of any local government services.

22 48-13-52.

23 As used in this article, the term:

24 (1) 'Charitable trust' means any trust or other entity covered by Article 6 of Chapter 12  
 25 of Title 53.

26 (2) 'Destination marketing organization' means a private sector nonprofit organization  
 27 other private entity exempt from federal income tax under section 501(c)(6) of the  
 28 Internal Revenue Code of 1986 that is supported by the tax under this article, government  
 29 budget allocations, private membership, or a combination of any or all three. Such  
 30 entities are deemed to be the sole, principal, and official destination marketing  
 31 organization for the city or county. Primary responsibilities are to encourage travelers

1 to visit their destinations, encourage meetings and expositions in the area, and to provide  
2 visitor assistance and support as needed.

3 (3) 'Fund' or 'funding' means the cost and expense of all things deemed necessary for the  
4 construction and operation of a project or facility, including but not limited to the study,  
5 operation, marketing, acquisition, construction, finance, development, extension,  
6 enlargement, or improvement of land, waters, property, streets, highways, buildings,  
7 structures, equipment, or facilities, and the repayment of any obligation in connection  
8 therewith.

9 (4) 'Innkeeper' means any person who is subject to taxation under this article for the  
10 furnishing for value to the public any rooms, lodgings, or accommodations.

11 (5) 'Promoting tourism, conventions, and trade shows' means planning, conducting, or  
12 participating in programs of information and publicity designed to attract or advertise  
13 tourism, conventions, or trade shows.

14 (6) 'Tourism product development' means the creation or expansion of physical  
15 attractions which improve destination appeal to visitors, support visitors' experience, and  
16 are used by visitors. The attractions must be available and open to the public, increase  
17 visitation, and ultimately increase hotel stays in the area. Expenditures may include  
18 capital costs and operating expenses. The attraction must be capital in nature and may  
19 include:

20 (A) Lodging for the public for no longer than 30 consecutive days to the same  
21 customer;

22 (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents;

23 (C) Meeting, convention, exhibit, and public assembly facilities;

24 (D) Sports stadiums, arenas, and complexes;

25 (E) Golf courses associated with a resort development that are open to the general  
26 public on a contract or fee basis;

27 (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car  
28 racetracks or speedways;

29 (G) Amusement centers, amusement parks, theme parks, or amusement piers;

30 (H) Hunting preserves, trapping preserves, or fishing preserves or lakes;

31 (I) Visitor information and welcome centers;

32 (J) Wayfinding signage;

33 (K) Permanent, nonmigrating carnivals or fairs;

34 (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing;

35 (M) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows,  
36 natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for  
37 amusement, aerial tramways, rodeos, water slides or wave pools; or

1 (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological  
2 gardens.

3 48-13-53.

4 Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution  
5 of this state, there are created within this state 159 special districts. One such district shall  
6 exist within the geographical boundaries of each county, and the territory of each such  
7 district shall include all of the territory within the county except territory located within the  
8 boundaries of any municipality which imposes an excise tax on charges to the public for  
9 rooms, lodgings, and accommodations under this article.

10 48-13-54.

11 The tax authorized by this article shall not apply to:

12 (1) Charges made for any rooms, lodgings, or accommodations provided to any persons  
13 who certify that they are staying in such room, lodging, or accommodation as a result of  
14 the destruction of their home or residence by fire or other casualty;

15 (2) The use of meeting rooms and other such facilities or any rooms, lodgings, or  
16 accommodations provided without charge;

17 (3) Any rooms, lodgings, or accommodations furnished for a period of one or more days  
18 for use by Georgia state or local governmental officials or employees when traveling on  
19 official business. Notwithstanding the availability of any other means of identifying the  
20 person as a state or local government official or employee, whenever a person pays for  
21 any rooms, lodgings, or accommodations with a state or local government credit or debit  
22 card, such rooms, lodgings, or accommodations shall be deemed to have been furnished  
23 for use by a Georgia state or local government official or employee traveling on official  
24 business for purposes of the exemption provided by this paragraph. For purpose of the  
25 exemption provided under this paragraph, a local government official or employee shall  
26 include officials or employees of counties, municipalities, consolidated governments, or  
27 county or independent school districts; or

28 (4) Charges made for continuous use of any rooms, lodgings, or accommodations after  
29 the first 30 days of continuous occupancy.

30 48-13-55.

31 (a)(1) The governing authority of each municipality in this state may levy and collect an  
32 excise tax at a rate not to exceed 8 percent of the charge for the furnishing for value to  
33 the public of any room or rooms, lodgings, or accommodations furnished by any person  
34 or legal entity licensed by, or required to pay business or occupation taxes to, the

1 municipality for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin,  
2 campground, or any other place in which rooms, lodgings, or accommodations are  
3 regularly or periodically furnished for value.

4 (2) Within the territorial limits of the special district located within the county, each  
5 county in this state may levy and collect an excise tax at a rate not to exceed 8 percent of  
6 the charge for the furnishing for value to the public of any room or rooms, lodgings, or  
7 accommodations furnished by any person or legal entity licensed by, or required to pay  
8 business or occupation taxes to, the county for operating within the special district a  
9 hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in  
10 which rooms, lodgings, or accommodations are regularly or periodically furnished for  
11 value.

12 (3) Such excise tax shall be levied only if approved by a local Act which specifies the  
13 initial or subsequent tax rate, identifies the projects or tourism product development  
14 purposes, and specifies the allocation of proceeds.

15 (4) In each fiscal year during which a tax is collected under paragraph (1) or (2) of this  
16 subsection, an amount not less than 50 percent of the total taxes collected shall be  
17 expended for promoting tourism, conventions, and trade shows by the destination  
18 marketing organization. The remaining amount for taxes collected after the expenditure  
19 dedicated to promoting tourism, conventions, and trade shows shall be expended for  
20 tourism product development.

21 (b) The excise tax shall be imposed on any person or legal entity licensed by or required  
22 to pay a business or occupation tax to the governing authority imposing the tax for  
23 operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other  
24 place in which rooms, lodgings, or accommodations are regularly or periodically furnished  
25 for value and shall apply to the furnishing for value of any room, lodging, or  
26 accommodation. Every person or entity subject to a tax levied as provided in this article  
27 shall, except as provided in this article, be liable for the tax at the applicable rate on the  
28 lodging charges actually collected or, if the amount of taxes collected from the hotel or  
29 motel guest is in excess of the total amount that should have been collected, the total  
30 amount actually collected must be remitted.

31 (c) Any tax levied as provided in this article is also imposed upon every person or entity  
32 who is a hotel or motel guest and who receives a room, lodging, or accommodation that is  
33 subject to the tax levied under this article. Every such guest subject to the tax levied under  
34 this article shall pay the tax to the person or entity providing the room, lodging, or  
35 accommodation. The tax shall be a debt of the person obtaining the room, lodging, or  
36 accommodation to the person or entity providing such room, lodging, or accommodation  
37 until it is paid and shall be recoverable at law by the person or entity providing such room,

1 lodging, or accommodation in the same manner as authorized for the recovery of other  
2 debts. The person or entity collecting the tax from the hotel or motel guest shall remit the  
3 tax to the governing authority imposing the tax, and the tax remitted shall be a credit  
4 against the tax imposed by subsection (b) of this Code section on the person or entity  
5 providing the room, lodging, or accommodation.

6 (d) A county or municipality levying a tax as provided in this article shall expend the  
7 proceeds only through a contract or contracts with destination marketing organizations.

8 (e)(1) Except as provided in paragraph (2) of this subsection, any county or municipality  
9 levying and collecting a tax under the provisions of this article in effect immediately prior  
10 to July 1, 2008, shall continue to levy the tax at the same rate and collect and expend the  
11 tax in the same manner and pursuant to the same restrictions in effect at that time and  
12 pursuant to any and all contractual obligations entered into prior to July 1, 2008, and in  
13 current effect until the expiration of such previously entered into contract or contracts and  
14 the repayment and retirement of previously incurred bonded indebtedness the repayment  
15 of which was secured in whole or in part by the proceeds of such tax. Upon certification  
16 by the state revenue commissioner that all such outstanding obligations and indebtedness  
17 have been satisfied, a county or municipality shall be authorized to levy a tax under this  
18 article after July 1, 2008.

19 (2) Any county or municipality levying and collecting a tax under the provisions of this  
20 article in effect immediately prior to July 1, 2008, may continue to levy the tax at the  
21 same rate or discontinue the tax and reimpose it at a different rate so long as any and all  
22 contractual obligations previously entered into and in current effect with respect to such  
23 proceeds continue to be met and the repayment and retirement of previously incurred  
24 bonded indebtedness the repayment of which was secured in whole or in part by the  
25 proceeds of such tax continues. Upon certification by the state revenue commissioner  
26 that all such outstanding obligations and indebtedness have been satisfied, a county or  
27 municipality shall be authorized to levy a hotel motel tax without being subject to this  
28 subsection.

29 (f) Nothing in this Code section shall be construed to impair, or authorize or require the  
30 impairment of, any existing contract or contractual rights.

31 (g) At no time shall a county or municipality levy more than one tax under this article.

32 (h) A county or municipality imposing a tax under this article shall prior to the imposition  
33 of the tax or changing the rate of the levy of the tax and prior to each fiscal year thereafter  
34 in which the tax is imposed adopt a budget plan specifying how the proceeds thereof are  
35 to be expended. Prior to the adoption of such budget plan, the county or municipality shall  
36 obtain from the destination marketing organization with which it proposes to contract to  
37 meet the expenditure requirements of this Code section a budget for expenditures to be

1 made by such organization; and such budget shall be made a part of the county or  
2 municipal budget plan.

3 (i) A county or municipality contractually expending funds of the tax under this article  
4 shall require the destination marketing organization to provide audit verification that such  
5 organization makes use of such funds in conformity with the requirements of this  
6 subsection. If the audit required by Code Section 36-81-7 identifies noncompliance with  
7 the applicable expenditure requirements of this Code section, such noncompliance shall be  
8 reported in accordance with paragraph (2) of subsection (c) of Code Section 36-81-7. The  
9 state auditor shall report all instances of noncompliance with this subsection noted in the  
10 audit report to the Department of Community Affairs upon completion of the report review  
11 required by paragraph (2) of subsection (d) of Code Section 36-81-7. The state auditor  
12 shall furnish a copy of all documents submitted by the local government or the local  
13 government's auditor pertaining to noncompliance with this subsection to the Department  
14 of Revenue.

15 (j) Any action by a local governing authority to impose or change the rate of the tax  
16 authorized under this article following the enactment of a local Act shall become effective  
17 no sooner than the first day of the second month following its action by the local governing  
18 authority.

19 (k) No tax under this article may be levied or collected by a county outside the territorial  
20 limits of the special district located within the county.

21 48-13-56.

22 (a)(1) The Hotel Motel Tax Performance Review Board in existence on January 1, 2008,  
23 consisting of 11 members, is continued.

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

26 (A) A designee of the commissioner;

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

28 (C) A representative of municipal government;

29 (D) A representative of county government; and

30 (E) A representative of a destination marketing organization.

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

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

33 (5) The Lieutenant Governor shall appoint one member of the board.

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

35 (7) The commissioner of economic development shall appoint one member of the board.

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

1 (b)(1) Members of the board in office on January 1, 2008, shall continue to serve for the  
2 remainder of the terms to which appointed. The member of the board who is appointed  
3 under subparagraph (a)(2)(A) of this Code section shall serve for a term of office of five  
4 years. Members of the board who are appointed under subparagraphs (a)(2)(B),  
5 (a)(2)(C), (a)(2)(D), and (a)(2)(E) of this Code section shall serve for terms of office of  
6 three years each. Members of the board who are appointed under paragraphs (3), (4), and  
7 (5) of subsection (a) of this Code section shall serve for terms of office of three years  
8 each. Members of the board who are appointed under paragraphs (6), (7), and (8) of  
9 subsection (a) of this Code section shall serve for terms of office of five years each.  
10 Members of the board shall serve for the terms of office specified in this subsection and  
11 until their respective successors are appointed and qualified. Members of the board may  
12 be reappointed to the board upon the expiration of their terms of office if they otherwise  
13 continue to meet the qualifications for such office.

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

17 (c) It shall be the duty of the performance review board to make a thorough and complete  
18 investigation of any complaint with respect to all actions of a county, municipality, or any  
19 other entity regarding its expenditure of funds received from a tax under this article and  
20 such county's, municipality's, or other entity's compliance with state law and regulations.  
21 Complaints may be received from taxpayers, local governments, innkeepers, or private  
22 sector nonprofit organizations. All complaints shall be received by the department by June  
23 1 in order to be heard the following year. The performance review board shall meet  
24 annually from September 1 through December 1. The department shall send a notice to all  
25 interested parties of the meeting place and time. The performance review board shall issue  
26 a written report of its findings which shall include such evaluations, judgments, and  
27 recommendations as it deems appropriate.

28 (d) The findings of the report of the review board under subsection (c) of this Code section  
29 shall be transmitted to the commissioner of community affairs within 60 calendar days of  
30 hearing the complaint. The commissioner of community affairs shall have 30 calendar  
31 days to review the findings of the performance review board. If the commissioner of  
32 community affairs determines that remedial action is necessary, the subject of the  
33 complaint shall be issued a notice by certified mail, return receipt requested, or statutory  
34 overnight delivery and shall be given a period of 90 calendar days to take the necessary  
35 remedial action with respect to such findings. In the event that such remedial action does  
36 not occur within the specified period, the commissioner of community affairs shall  
37 immediately notify the state revenue commissioner, and the state revenue commissioner

1 shall be authorized to take appropriate action to enforce compliance with such remedial  
2 action, up to and including termination of the tax.

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

5 (f) Each member of the board shall receive the same per diem expense allowance as that  
6 received by members of the General Assembly for each day a committee member is in  
7 attendance at a meeting of the committee, plus reimbursement for actual transportation  
8 costs incurred while traveling by public carrier or the mileage allowance authorized for  
9 certain state officials and employees for the use of a personal automobile in connection  
10 with such attendance. Such allowance and reimbursement shall be paid in lieu of any other  
11 per diem, allowance, or remuneration and shall be paid from funds appropriated to the  
12 Department of Community Affairs.

13 48-13-57.

14 (a) If any innkeeper liable for any tax, interest, or penalty imposed by this article sells his  
15 or her business or quits the business, he or she shall make a final return and payment within  
16 15 days after the date of selling or quitting the business. The innkeeper's successor or  
17 assigns, if any, shall withhold a sufficient amount of the purchase money to cover the  
18 amount of the taxes, interest, and penalties due under this article and unpaid until the  
19 former owner produces either a receipt from the governing authority imposing the tax  
20 showing that the taxes, interest, and penalties due under this article have been paid or a  
21 certificate from the governing authority imposing the tax stating that no tax, interest, or  
22 penalty is due under this article. If the purchaser of a business fails to withhold the  
23 purchase money as required by this Code section, he or she shall be personally liable for  
24 the payment of any taxes, interest, and penalties accruing under this article and unpaid by  
25 any former owner or assignor. The personal liability of the purchaser in such a case shall  
26 not exceed the amount of the total purchase money, but the property being transferred shall  
27 in all cases be subject to the full amount of the tax lien arising from the delinquencies of  
28 the former owner. Paid executions may be transferred and enforced as otherwise provided  
29 by law.

30 (b)(1) Each innkeeper, on or before the twentieth day of each month, shall transmit  
31 returns and remit taxes due to any applicable governing authority imposing a tax under  
32 this article showing the gross charges taxable under this article during the preceding  
33 calendar month. The governing authority imposing the tax may provide by resolution or  
34 ordinance for quarterly or annual returns. The returns required by this subsection shall  
35 be made upon forms prescribed, prepared, and furnished by the governing authority  
36 imposing the tax.

1 (2) As used in this paragraph, the term 'estimated tax liability' means an innkeeper's tax  
2 liability under this article, adjusted to account for any subsequent change in the rate of  
3 tax imposed under this article or any substantial change in circumstances due to damage  
4 to the premises, based on his or her average monthly payments for the last fiscal year.  
5 If the estimated tax liability of an innkeeper for any taxable period exceeds \$2,500.00,  
6 the innkeeper shall file a return and remit to the governing authority imposing the tax not  
7 less than 50 percent of the estimated tax liability for the taxable period on or before the  
8 twentieth day of the period. The amount of the payment of the estimated tax liability  
9 shall be credited against the amount to be due on the return required under paragraph (1)  
10 of this subsection. This paragraph shall not apply to any innkeeper unless during the  
11 previous fiscal year the innkeeper's monthly payments exceeded \$2,500.00 per month for  
12 three consecutive months or more.

13 (c)(1) The governing authority imposing a tax under this article may, for good cause,  
14 extend the time for making any returns required under this article for not more than 30  
15 days.

16 (2) No extension granted pursuant to paragraph (1) of this subsection shall be valid  
17 unless granted in writing upon written application, and then the extension shall only be  
18 valid for a period, as appropriate, of not more than 12 consecutive months or four  
19 consecutive calendar quarters.

20 (3) Upon the grant of any extension authorized by this subsection, the innkeeper shall  
21 remit to the governing authority imposing a tax under this article on or before the date the  
22 tax would otherwise become due without the grant of the extension an amount which  
23 equals not less than 100 percent of the innkeeper's payment for the corresponding period  
24 of the preceding tax year.

25 (4) No interest or penalty shall be charged by reason of the granting of an extension  
26 pursuant to this subsection during the first ten days of each extension period. Thereafter,  
27 interest shall be collected upon the unpaid balance of the innkeeper's liability at the rate  
28 specified in Code Section 48-2-40.

29 (d) In the event any innkeeper fails to make a return and pay the tax as provided by this  
30 article or makes a grossly incorrect return or a return that is false or fraudulent, the  
31 governing authority imposing a tax under this article shall make an estimate for the taxable  
32 period of taxable charges of the innkeeper. Based upon its estimate, the governing  
33 authority shall assess and collect the taxes, interest, and penalties, as accrued, on the basis  
34 of the assessments.

35 (e) Each innkeeper required to make a return and pay any tax under this article shall keep  
36 and preserve:

37 (1) Suitable records of the charges taxable under this article; and

1 (2) Other books of account which are necessary to determine the amount of tax due.

2 (f) All books, invoices, and other records required by this Code section to be kept shall be  
3 open to examination at all reasonable hours by the governing authority imposing a tax  
4 under this article.

5 (g) Any assessment of an innkeeper pursuant to this article by the governing authority  
6 imposing a tax under this article shall be deemed prima facie correct.

7 (h) The tax imposed by this article shall become delinquent for each month after the  
8 twentieth day of each succeeding month during which it remains unpaid.

9 48-13-58.

10 (a) Any state park operated under the jurisdiction of the Department of Natural Resources  
11 which regularly or periodically furnishes for value lodge rooms as well as meals and  
12 conference or meeting facilities or has a minimum of 20 cabins and which is located in a  
13 county or municipality levying a tax under this article shall, as provided in this Code  
14 section, agree to collect and remit to the county or municipality within whose taxing  
15 jurisdiction the facility is located amounts which are equal to, or partially equal to, the  
16 amounts which would be collected and remitted to the county or municipality under the tax  
17 levied by the county or municipality under this article if the lodges or cabins were privately  
18 operated. The sums so collected and remitted shall only be expended for development,  
19 promotion, and advertising of the lodges or cabins from which the money was collected  
20 and remitted or for similar purposes of promoting, advertising, stimulating, and developing  
21 conventions and tourism in the county or municipality in which the state park is operated  
22 so long as said promotion or advertising prominently features the state park facilities or  
23 similar facilities operated under the jurisdiction of the Department of Natural Resources.

24 (b)(1) A charitable trust, or a functionally related business of a charitable trust, which  
25 regularly furnishes for value rooms, lodgings, or accommodations shall be subject to local  
26 licensure by, or required to pay a business or occupation tax to, a county or municipality  
27 only to the extent provided in this subsection. Further, such a charitable trust, or such a  
28 functionally related business of a charitable trust, shall be subject to taxes levied under  
29 this article only to the extent provided in this Code section.

30 (2) Any license fee of any type, whether a flat fee or based on gross receipts, charged by  
31 a county or municipality to a charitable trust, or to a functionally related business of a  
32 charitable trust or any affiliated activity, shall not exceed \$200.00 per year.

33 (3) Any tax levied by a county or municipality under this article shall apply to a  
34 charitable trust, or a functionally related business of a charitable trust, only if the levy and  
35 collection of the tax is approved in advance in writing by the Board of Natural Resources.

36 The Board of Natural Resources may revoke its approval at will. Amounts collected and

1 remitted under the authority of this Code section shall be expended solely for promoting,  
2 attracting, stimulating, and developing conventions and tourism. The expenditure of the  
3 funds shall only be made under a written agreement between the charitable trust or its  
4 functionally related business and the local government. The agreement governing the  
5 expenditure of the funds must be approved in writing by the Board of Natural Resources  
6 before any taxes are collected and remitted and before any funds are spent.

7 (4) This subsection shall govern the licenses and license fees of, and the levy, collection,  
8 and expenditure of the taxes authorized by this article as applied to, a charitable trust or  
9 a functionally related business of a charitable trust.

10 48-13-59.

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

17 48-13-60.

18 The provisions of Code Section 48-2-41, relating to authority to waive interest on unpaid  
19 taxes; Code Section 48-2-43, relating to authority to waive penalties; and Code Section  
20 48-2-49, relating to periods of limitation for assessment of taxes imposed by this title, shall  
21 apply to taxes imposed by any local governing authority pursuant to this article, provided  
22 that the local governing authority shall stand in lieu of the commissioner and the county  
23 or municipality shall stand in lieu of the state for purposes of this Code section.

24 48-13-61.

25 (a) When any innkeeper fails to make any return or to pay the full amount of the tax  
26 required by this article, there shall be imposed, in addition to other penalties provided by  
27 law, a penalty to be added to the tax in the amount of 5 percent or \$5.00, whichever is  
28 greater, if the failure is for not more than 30 days and an additional 5 percent or \$5.00,  
29 whichever is greater, for each additional 30 days or fraction of 30 days during which the  
30 failure continues. The penalty for any single violation shall not exceed 25 percent or  
31 \$25.00 in the aggregate, whichever is greater. If the failure is due to providential cause  
32 shown to the satisfaction of the governing authority imposing a tax under this article in  
33 affidavit form attached to the return and remittance is made within ten days of due date, the  
34 return may be accepted exclusive of penalties and interest. In the case of a false or

1 fraudulent return or of a failure to file a return where willful intent exists to defraud the  
2 governing authority of any tax due under this article, a penalty of 50 percent of the tax due  
3 shall be assessed.

4 (b) All civil penalties and interest added to any tax imposed under this article and collected  
5 by a county or municipality shall be included as revenue derived from such tax for  
6 purposes of the expenditure requirements imposed on such county or municipality as  
7 provided by this article.

8 48-13-62.

9 (a) It shall be unlawful for any innkeeper to fail to make a return and pay the taxes due  
10 under this article to any applicable governing authority imposing a tax under this article.

11 (b)(1) If the tax liability is \$10,000.00 or less, any person who violates subsection (a) of  
12 this Code section shall be guilty of a misdemeanor.

13 (2) If the tax liability is more than \$10,000.00, any person who violates subsection (a)  
14 of this Code section shall be guilty of a felony and, upon conviction thereof, shall be  
15 punished by imprisonment for not less than one year nor more than ten years.

16 48-13-63.

17 (a) It shall be unlawful for any innkeeper to fail, neglect, or refuse to collect the tax  
18 provided in this article, either by himself or herself or through his or her agents or  
19 employees.

20 (b) In addition to the penalty of being liable for and paying the tax himself or herself, any  
21 person who violates subsection (a) of this Code section shall be guilty of a misdemeanor  
22 and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or  
23 imprisonment in the county jail for not more than three months, or both.

24 48-13-64.

25 (a) It shall be unlawful for any innkeeper required by this article to make, render, sign, or  
26 verify any return to make a false or fraudulent return with intent to evade the tax levied by  
27 this article.

28 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
29 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than  
30 \$100.00 nor more than \$300.00 or confinement in the county jail for not less than 30 days  
31 nor more than three months, or both fine and confinement.

1 48-13-65.

2 (a) It shall be unlawful for any innkeeper subject to this article to fail or refuse to furnish  
3 any return required to be made by this article or to fail or refuse to furnish a supplemental  
4 return or other data required by the governing authority imposing a tax under this article.

5 (b) It shall be unlawful for any innkeeper subject to this article to fail to keep records or  
6 to fail to open the records to inspection as required by law.

7 (c) It shall be unlawful for any innkeeper to violate any other provision of this article for  
8 which punishment is not otherwise provided.

9 (d) Any person who violates subsection (a), (b), or (c) of this Code section shall be guilty  
10 of a misdemeanor."

11 **SECTION 4.**

12 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
13 resources, is amended by revising Code Section 12-3-219, relating to applicability of taxes  
14 to the Stone Mountain Memorial Association, as follows:

15 "12-3-219.

16 (a) It is found, determined, and declared that the creation of the association and the  
17 carrying out of its corporate purposes are in all respects for the benefit of the people of this  
18 state and that the association is an institution of purely public charity and will be  
19 performing an essential governmental function in the exercise of the power conferred upon  
20 it by this part. Except as otherwise provided in subsection (b) of this Code section, this  
21 state covenants with the holders of the bonds that the association shall be required to pay  
22 no taxes or assessment upon any of the property acquired or leased by it under its  
23 jurisdiction, control, possession, or supervision, or upon its activities in the operation or  
24 maintenance of the project erected by it, or upon any fees, rental, or other charges for the  
25 use of the facilities or services of the project, or upon other income received by the  
26 association. Further, this state covenants that the bonds of the association, their transfer,  
27 and the income therefrom shall at all times be exempt from taxation from within the state.

28 (b)(1) Facilities, services, and charges for the use of facilities and services of any project  
29 owned or operated by the association shall not be exempt from and shall be subject to  
30 taxes under Article 3 of Chapter 13 of Title 48, ~~notwithstanding any provision to the~~  
31 ~~contrary in paragraph (1) of subsection (a) of Code Section 48-13-51~~, and shall not be  
32 exempt from and shall be subject to any taxes on alcoholic beverages under Title 3, the  
33 'Georgia Alcoholic Beverage Code,' to the extent that either or both such taxes are levied.

34 (2) Notwithstanding any provision of ~~paragraph (3) of subsection (a) of Code Section~~  
35 ~~48-13-51~~ Article 3 of Chapter 13 of Title 48 to the contrary:

1 (A) The association shall retain and not remit to the county or municipality levying  
 2 such tax, in each fiscal year during which a tax is collected under ~~paragraph (3) of~~  
 3 ~~subsection (a) of Code Section 48-13-51~~ Code Section 48-13-55, an amount equal to  
 4 the amount by which the total taxes collected under Code Section ~~48-13-51~~ 48-13-55  
 5 exceed the taxes which would be collected at the rate of 3 percent;

6 (B) The association shall expend the funds retained for the purposes of promotion and  
 7 advertising of the project operated under the jurisdiction of the association from which  
 8 the money was collected or for similar purposes of promoting, advertising, stimulating,  
 9 and developing conventions and tourism in the county or municipality in which the  
 10 project is operated as long as said promotion or advertising prominently features the  
 11 project operated under the jurisdiction of the association; and

12 (C) The association shall submit a report to the governing authority of the county or  
 13 municipality levying such tax for each fiscal year during which a tax is collected under  
 14 ~~paragraph (3) of Code Section 48-13-51~~ Code Section 48-13-55 which report shall  
 15 include the total funds retained by the association under this paragraph and the manner  
 16 in which such funds were expended."

#### 17 SECTION 5.

18 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 19 by revising paragraph (3) of subsection (e) of Code Section 36-31-8, relating to transition  
 20 periods for governmental functions, as follows:

21 "(3) Provisions of Code Section ~~48-13-51~~ 48-13-59, relating to reporting of excise taxes  
 22 collected and expended pursuant to Article 3 of Chapter 13 of Title 48; and"

#### 23 SECTION 6.

24 Said title is further amended by revising Code Section 36-60-14, relating to contractual  
 25 authority of cities and counties, as follows:

26 "36-60-14.

27 The governing body of each county or municipal corporation of this state is authorized to  
 28 enter into one year, or less, contracts with private nonprofit organizations which are exempt  
 29 from federal income taxes pursuant to Section 501(c)(3) or 501(c)(6) of the Internal  
 30 Revenue Code to utilize such organizations to identify, attract, and locate new business and  
 31 industry into the county or municipality for the purposes of increasing trade, industry,  
 32 agribusiness, commerce, and tourism and the improvement of employment opportunities  
 33 within the county or municipality and to otherwise promote the general welfare of the  
 34 county or municipality; provided, however, that the authority provided under this Code  
 35 section shall not affect or in any way apply to any contract under ~~Code Section 48-13-51~~

1 Article 3 of Chapter 13 of Title 48 regarding the expenditure of proceeds collected under  
2 ~~Article 3 of Chapter 13 of Title 48~~ such article unless that contract is executed by the  
3 governing body of a county in which is imposed, prior to January 1, 2001, the homestead  
4 option sales and use tax authorized under Code Section 48-8-102."

5 **SECTION 7.**

6 Said title is further amended by revising subparagraph (b)(1)(B) of Code Section 36-81-8,  
7 relating to local government finance requests, as follows:

8 "(B) Each unit of local government which levies a tax pursuant to Article 3 of Chapter  
9 13 of Title 48 shall also submit a schedule of all revenues therefrom which are  
10 expended for the promotion of tourism, conventions, and trade shows or any other  
11 tourism related purpose which is specified under ~~Code Section 48-13-51~~ such article.  
12 Such schedule shall identify both the project or projects involved and the contracted  
13 entity involved in each such expenditure."

14 **SECTION 8.**

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