

1 SENATE BILL 102

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Peter Wirth

5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; AMENDING CERTAIN DEFINITIONS OF THE
12 LODGERS' TAX ACT FOR THE PURPOSE OF IMPOSING THE TAX.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 3-38-14 NMSA 1978 (being Laws 1969,
16 Chapter 199, Section 2, as amended) is amended to read:

17 "3-38-14. DEFINITIONS.--As used in the Lodgers' Tax Act:

18 A. "gross taxable rent" means the total amount of
19 rent and fees paid by a vendee for lodging, not including the
20 state gross receipts tax or local sales taxes;

21 B. "lodging" means the transaction of [~~furnishing~~]
22 charging rent or a fee for:

23 (1) rooms or other accommodations by a vendor
24 to a vendee who, in exchange for rent, uses, possesses or has
25 the right to use or possess the rooms or other units of

.190368.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 accommodations in or at a taxable premises;

2 (2) a license that allows a vendee to occupy
3 rooms or other accommodations at a taxable premises;

4 (3) arranging for a vendee's occupancy of
5 rooms or other accommodations by a vendor at a taxable
6 premises;

7 (4) establishing the total rent a vendee will
8 pay to a vendor for rooms or other accommodations at a taxable
9 premises; or

10 (5) collecting the rent payments from the
11 vendee;

12 C. "lodgings" means the rooms or other
13 accommodations furnished by a vendor to a vendee by a taxable
14 service of [~~lodgings~~] lodging;

15 D. "occupancy tax" means the tax on lodging
16 authorized by the Lodgers' Tax Act;

17 E. "person" means a corporation, firm, other body
18 corporate, partnership, association or individual. "Person"
19 includes an executor, administrator, trustee, receiver or other
20 representative appointed according to law and acting in a
21 representative capacity. "Person" does not include the United
22 States of America, the state of New Mexico, any corporation,
23 department, instrumentality or agency of the federal government
24 or the state government or any political subdivision of the
25 state;

.190368.2

underscoring material = new
~~[bracketed material] = delete~~

1 F. "rent" means the consideration received by a
2 vendor in money, credits, property or other consideration
3 valued in money for lodgings subject to an occupancy tax
4 authorized in the Lodgers' Tax Act;

5 G. "taxable premises" means a hotel, apartment,
6 apartment hotel, apartment house, lodge, lodging house, rooming
7 house, motor hotel, guest house, guest ranch, ranch resort,
8 guest resort, mobile home, motor court, auto court, auto camp,
9 trailer court, trailer camp, trailer park, tourist camp, cabin
10 or other premises used for lodging;

11 H. "tourist" means a person who travels for the
12 purpose of business, pleasure or culture to a municipality or
13 county imposing an occupancy tax;

14 I. "tourist-related events" means events that are
15 planned for, promoted to and attended by tourists;

16 J. "tourist-related facilities and attractions"
17 means facilities and attractions that are intended to be used
18 by or visited by tourists;

19 K. "tourist-related transportation systems" means
20 transportation systems that provide transportation for tourists
21 to and from tourist-related facilities and attractions and
22 tourist-related events;

23 L. "vendee" means a natural person to whom lodgings
24 are furnished in the exercise of the taxable service of
25 lodging; and

.190368.2

underscored material = new
[bracketed material] = delete

1 M. "vendor" means a person or ~~[his]~~ the person's
2 agent ~~[furnishing lodgings]~~ who, in the exercise of the taxable
3 service of lodging:

- 4 (1) furnishes lodgings;
- 5 (2) offers a license that allows a vendee to
6 occupy lodgings;
- 7 (3) arranges for a vendee's occupancy of
8 lodgings;
- 9 (4) establishes the total rent a vendee will
10 pay for lodgings; or
- 11 (5) collects the rent payments from the
12 vendee."

13 SECTION 2. Section 3-38-15 NMSA 1978 (being Laws 1969,
14 Chapter 199, Section 3, as amended) is amended to read:

15 "3-38-15. AUTHORIZATION OF TAX--LIMITATIONS ON USE OF
16 PROCEEDS.--

17 A. A municipality may impose by ordinance an
18 occupancy tax for revenues on lodging within the municipality,
19 and the board of county commissioners of a county may impose by
20 ordinance an occupancy tax for revenues on lodging within that
21 part of the county outside of the incorporated limits of a
22 municipality.

23 B. The occupancy tax shall not exceed five percent
24 of the gross taxable rent.

25 C. Every vendor who ~~[is furnishing any lodgings]~~

.190368.2

underscored material = new
[bracketed material] = delete

1 engages in lodging within a municipality or county is
2 exercising a taxable privilege.

3 D. The following portions of the proceeds from the
4 occupancy tax shall be used only for advertising, publicizing
5 and promoting tourist-related facilities and attractions
6 [~~facilities~~] and tourist-related events:

7 (1) if the municipality or county imposes an
8 occupancy tax of no more than two percent, not less than
9 one-fourth of the proceeds shall be used for those purposes;

10 (2) if the occupancy tax imposed is more than
11 two percent and the municipality is not located in a class A
12 county or the county is not a class A county, not less than
13 one-half of the proceeds from the first three percent of the
14 occupancy tax and not less than one-fourth of the proceeds from
15 the occupancy tax in excess of three percent shall be used for
16 those purposes; and

17 (3) if the occupancy tax imposed is more than
18 two percent and the municipality is located in a class A county
19 or the county is a class A county, not less than one-half of
20 the proceeds from the occupancy tax shall be used for those
21 purposes.

22 E. The proceeds from the occupancy tax in excess of
23 the amount required to be used for advertising, publicizing and
24 promoting tourist-related facilities and attractions
25 [~~facilities~~] and tourist-related events may be used for any

.190368.2

underscored material = new
~~[bracketed material] = delete~~

1 purpose authorized in Section 3-38-21 NMSA 1978.

2 F. The proceeds from the occupancy tax that are
3 required to be used to advertise, publicize and promote
4 tourist-related facilities and attractions [~~facilities~~] and
5 tourist-related events shall be used within two years of the
6 close of the fiscal year in which they were collected and shall
7 not be accumulated beyond that date or used for any other
8 purpose.

9 G. Notwithstanding the provisions of Paragraph (2)
10 of Subsection D of this section, any use by a municipality or
11 county of occupancy tax proceeds on January 1, 1996 may
12 continue to be so used after July 1, 1996 in accordance with
13 the provisions of this section and Section 3-38-21 NMSA 1978 as
14 they were in effect prior to July 1, 1996; provided that any
15 change in the use of those occupancy tax proceeds after July 1,
16 1996 is subject to the limitations of that paragraph.

17 H. Notwithstanding the provisions of Paragraph (2)
18 of Subsection D of this section, the payment of principal and
19 interest on outstanding bonds issued prior to January 1, 1996
20 pursuant to Section 3-38-23 or 3-38-24 NMSA 1978 shall be made
21 in accordance with the retirement schedules of the bonds
22 established at the time of issuance. The amount of
23 expenditures required under Paragraph (2) of Subsection D of
24 this section shall be reduced each year, if necessary, to make
25 the required payments of principal and interest of all

.190368.2

underscoring material = new
~~[bracketed material] = delete~~

1 outstanding bonds issued prior to January 1, 1996."

2 SECTION 3. APPLICABILITY.--The provisions of this act
3 apply to gross taxable rent paid on or after July 1, 2013.

4 SECTION 4. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2013.