SENATE BILL 763

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

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AN ACT

RELATING TO MUNICIPALITIES; AMENDING THE LODGERS' TAX ACT TO PERMIT CERTAIN MUNICIPALITIES TO IMPOSE THE OCCUPANCY TAX AT A HIGHER RATE; ADDING AN ELIGIBLE USE OF OCCUPANCY TAX PROCEEDS.

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

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

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

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

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1   B.   The occupancy tax shall not exceed:

2   (1)   five percent of the gross taxable rent;

3   or

4   (2)   six and twenty-five hundredths percent of

5   the gross taxable rent if imposed by a municipality located in

6   a class A county and having a population of more than two

7   hundred thousand according to the most recent federal

8   decennial census.

9   C.   Every vendor who is furnishing any lodgings

10   within a municipality or county is exercising a taxable

11   privilege.

12   D.   The following portions of the proceeds from the

13   occupancy tax shall be used only for advertising, publicizing

14   and promoting tourist-related facilities and attractions

15   [facilities] and tourist-related events:

16   (1)   if the municipality or county imposes an

17   occupancy tax of no more than two percent, not less than

18   one-fourth of the proceeds shall be used for those purposes;

19   (2)   if the occupancy tax imposed is more than

20   two percent and the municipality is not located in a class A

21   county or the county is not a class A county, not less than

22   one-half of the proceeds from the first three percent of the

23   occupancy tax and not less than one-fourth of the proceeds

24   from the occupancy tax in excess of three percent shall be

25   used for those purposes; and

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1   (3)   if the occupancy tax imposed is more than

2   two percent and the municipality is located in a class A

3   county or the county is a class A county, not less than

4   one-half of the proceeds from the <u>occupancy</u> tax shall be used

5   for those purposes.

6   E.   The proceeds from the occupancy tax in excess

7   of the amount required to be used for advertising, publicizing

8   and promoting tourist-related <u>facilities and</u> attractions

9   [<s>facilities</s>] and <u>tourist-related</u> events may be used for any

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

11   F.   The proceeds from the occupancy tax that are

12   required to be used to advertise, publicize and promote

13   tourist-related <u>facilities and</u> attractions [<s>facilities</s>] and

14   <u>tourist-related</u> events shall be used within two years of the

15   close of the fiscal year in which they were collected and

16   shall not be accumulated beyond that date or used for any

17   other purpose.

18   G.   Notwithstanding the provisions of Paragraph (2)

19   of Subsection D of this section, any use by a municipality or

20   county of occupancy tax proceeds on January 1, 1996 may

21   continue to be so used after July 1, 1996 in accordance with

22   the provisions of this section and Section 3-38-21 NMSA 1978

23   as they were in effect prior to July 1, 1996; provided, any

24   change in the use of those <u>occupancy</u> tax proceeds after July

25   1, 1996 is subject to the limitations of that paragraph.

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H.   Notwithstanding the provisions of Paragraph (2)

of Subsection D of this section, the payment of principal and

interest on outstanding bonds issued prior to January 1, 1996

pursuant to Section 3-38-23 or 3-38-24 NMSA 1978 shall be made

in accordance with the retirement schedules of the bonds

established at the time of issuance. The amount of

expenditures required under Paragraph (2) of Subsection D of

this section shall be reduced each year, if necessary, to make

the required payments of principal and interest of all

outstanding bonds issued prior to January 1, 1996."

Section 2. Section 3-38-21 NMSA 1978 (being Laws 1969,

Chapter 199, Section 9, as amended) is amended to read:

"3-38-21.   ELIGIBLE USES OF TAX PROCEEDS.--Subject to the

limitations contained in Section 3-38-15 NMSA 1978, a

municipality or county imposing an occupancy tax may use the

proceeds from the occupancy tax to defray costs of:

A.   collecting and otherwise administering the

occupancy tax, including the performance of audits required by

the Lodgers' Tax Act pursuant to guidelines issued by the

department of finance and administration;

B.   establishing, operating, purchasing,

constructing, otherwise acquiring, reconstructing, remodeling,

extending, improving, equipping, furnishing or acquiring real

property or any interest in real property for or on the site

or grounds for tourist-related facilities, attractions, a

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1   minor league baseball stadium or transportation systems of the

2   municipality, the county in which the municipality is located

3   or the county;

4   C.   the principal of and interest on any prior

5   redemption premiums due in connection with and any other

6   charges pertaining to revenue bonds authorized by Section

7   3-38-23 or 3-38-24 NMSA 1978;

8   D.   advertising, publicizing and promoting

9   tourist-related attractions and facilities and tourist-related

10   events of the municipality or county and [tourist] tourist-

11   related facilities [or] and attractions within the area;

12   E.   providing police and fire protection and

13   sanitation service for tourist-related events and tourist-

14   related facilities and attractions located in the respective

15   municipality or county; or

16   F.   any combination of the foregoing purposes or

17   transactions stated in this section, but for no other

18   municipal or county purpose."

19   Section 3.   EFFECTIVE DATE.--The effective date of the

20   provisions of this act is July 1, 2001.

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