

ORDINANCE NO. 1-97

BERKS COUNTY HOTEL ROOM RENTAL TAX

WHEREAS, the County of Berks, Pennsylvania (the "County") is a third class county and a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth"); and

WHEREAS, the health, safety and general welfare of the people of the County and the Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce, and tourism within the County and the Commonwealth; and

WHEREAS, that unemployment, the spread of indigency and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in the County and the Commonwealth, and

WHEREAS, that the development of convention centers is appropriate within the Redevelopment Assistance Eligible Area of a third class county and that the attraction of business to this County and the Commonwealth as a result of such development is an important factor in the continual encouragement, promotion, attraction, stimulation, development, growth and expansion of business, industry, commerce and tourism within the County, the surrounding counties and the Commonwealth as a whole; and

WHEREAS, that the development of a convention center will provide benefits to the hotel industry throughout the entire Market Area (as hereinafter defined); and

WHEREAS, that the development of a convention center will also provide benefits to the restaurant and entertainment industries located throughout the County, to all other businesses and individuals who will benefit by the attraction of major conventions and tourists, and to other individuals and businesses whose livelihood is dependent on major conventions and tourists and to the general public, and

WHEREAS, the County, acting jointly with the City of Reading, Berks County, Pennsylvania, (the "City"), has heretofore created the Berks County Convention Center Authority pursuant to the provisions of the Act to assist in the development of a Convention Center at 7th and Penn Streets in the City, the proposed site of the convention center as of the date of this Ordinance; and

WHEREAS, that the need for and promotion of the Convention Center which is the type of facility which will provide significant benefits to the general public will require the expenditure of public money and that it is therefore appropriate to authorize the County to impose and collect a hotel room rental tax on the consideration received by each operator of a hotel in the City and within a fifteen (15) mile radius from the aforementioned site of the facility as provided in the Act, and

WHEREAS, the site of the proposed Convention Center is within a Redevelopment Assistance Eligible Area; and

WHEREAS, that an important aspect of the development of the Convention Center and proceeding with the project will be the removal and redevelopment of blighted areas within the City, and

WHEREAS, the purpose of the Convention Center is the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism throughout the County and the Commonwealth; and

The Commissioners of the County of Berks hereby ordain as follows:

A. Definitions.

In this Ordinance (including the recitals hereto) the following words and phrases shall have the meanings given to them in this Section unless the context clearly requires otherwise:

1. "Act" the Third Class County Convention Center Authority Act (Act of December 27, 1994, P.L. 1375, No. 162), as amended and supplemented.

2. "Authority" or "Berks County Convention Center Authority". An agency and public instrumentality of this Commonwealth and a body politic and corporate created pursuant to the Act.

3. "Consideration". Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

4. "Convention Center". Any land, improvement, structure, building, or part thereof, or property interest therein, whether owned by or leased by or to or otherwise acquired by the Authority, appropriate for any of the following: large public assemblies, the holding of conventions, conferences, trade exhibitions, and other business, social, cultural, scientific and public interest events, and all facilities, furniture, fixtures and equipment necessary or incident thereto, including meeting rooms, dining rooms, kitchens, ballrooms, reception areas, registration and pre-function areas, truck loading areas (including access thereto), access ways, common areas, lobbies, offices, and areas appurtenant to any of the preceding, together referred to as the "Main Convention Area,"

and also including other buildings, structures or facilities for use in conjunction with the foregoing including, but not limited to, provisions for off-street parking, retail areas and other improvements related to the center owned by or leased by or to the Authority for the purpose of producing revenues to assist in defraying any costs or expenses of the convention center.

5. "Hotel". A hotel, motel, inn, guesthouse or other building located within the Market Area which holds itself out by any means including advertising, license, registration with an innkeeper's group, convention listing association, travel publication or similar association or with any government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry, provided that portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition. The term "Hotel" does not include a Bed and Breakfast Homestead or Inn as defined in the Act of May 23, 1945 (P.L. 926 No. 369), referred to as the Public Eating and Drinking Place Law.

6. "Market Area". The City of Reading, Berks County, Pennsylvania, and the area within the County which is not more than 15 miles from the site of the convention center.

7. "Occupancy". The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

8. "Operator". Any individual, partnership, non-profit or profit-making

association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of, or otherwise possess the right to rent or lease overnight accommodations in any hotel to the public for consideration.

9. "Patron". Any person who pays the consideration for the occupancy of a room or rooms in a hotel, except for Patrons that are specifically exempted by Federal, State or County law.

10. "Permanent resident". Any person who has occupied or has the right to occupy any room or rooms in a hotel as a patron or otherwise for a period exceeding thirty (30) consecutive days.

11. "Room". A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one (1) bed or other sleeping accommodations provided therein.

12. "Temporary". A period of time not exceeding thirty (30) consecutive days.

13. "Tourist promotion agency". The agency designated by the County Commissioners to be eligible for grants from the Department of Community and Economic Development pursuant to the Act of April 28, 1961 (P.L. 111, No. 50), 73 P.S. §401 et seq., as amended, known as the "Tourist Promotion Law."

14. "Transaction". The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

15. "Transient". Any individual who obtains an accommodation in any hotel

for himself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the operator of the facility a fee in consideration thereof.

16. "Treasurer". The Office of Treasurer of the County of Berks.

B. Imposition and Rate of Tax

1. There is hereby imposed an excise tax on the consideration received by each Operator of a Hotel within the Market Area as defined in Paragraph A. No.6, from each Transaction of renting a Room or Rooms to accommodate Transients. The tax shall be collected by the Operator from the Patron of the Room and paid over to the County pursuant to Section C-1 and shall be known as the Hotel Room Rental Tax.

2. The rate of the Hotel Room Rental Tax shall be five percent (5%) on the effective date of this Ordinance.

C. Deposit and Distribution of Tax Revenues

1. The Treasurer shall collect the Hotel Room Rental Tax from the Operator and deposit the revenues received from the Hotel Room Rental Tax in the Tourist Promotion Agency Fund and the Convention Center Authority Fund, which are hereby established for the purposes set forth herein. Interest on moneys deposited in such funds shall accrue proportionately to the respective funds as provided herein. The Treasurer is hereby authorized to establish rules and regulations concerning the collection of the Hotel Room Rental Tax.

2. Within thirty (30) days of collection of the Hotel Room Rental Tax, there shall be deposited in the Tourist Promotion Agency Fund, established pursuant to

Subsection (1), for the use of the designated tourist promotion agency, twenty percent (20%) of all revenues received from the Hotel Room Rental Tax imposed pursuant to this Section.

3. The balance of revenues to be received from the Hotel Room Rental Tax imposed pursuant to this Section shall be deposited in the Convention Center Authority Fund, established pursuant to Subsection (1), for the use of the Authority for Convention Center purposes. Within thirty (30) days of the collection of these funds, the Treasurer shall provide these funds directly to the Authority.

D. Expenditures from Funds.

1. Provided that no event of default has occurred and is continuing with respect to any bonds, notes or other indebtedness of the Authority incurred to finance the construction of the Convention Center, revenues received from the Hotel Room Rental Tax and deposited in the Tourist Promotion Agency Fund shall be disbursed by the Treasurer of the County to the tourist promotion agency within ten (10) days after deposit to the Tourist Promotion Agency Fund. If an event of default has occurred and is continuing with respect to any bonds, notes or other indebtedness of the Authority incurred to finance the construction of the Convention Center, 100% of the revenues received from the Hotel Room Rental Tax shall be deposited by the County in the Convention Center Authority Fund. All funds transferred to the tourist promotion agency pursuant to this Section D shall be used by the tourist promotion agency as permitted by law.

2. Expenditures from the Convention Center Authority Fund shall be used by the Authority at its discretion for any use permitted by the Act, including, but not limited to the following:

- a. Any debt service or lease payments of the Authority.

b. Costs associated with financing, constructing, improving, maintaining, furnishing, fixturing and equipping the Convention Center.

c. Costs associated with the development of the Convention Center, including, but not limited to, design, engineering and feasibility costs.

d. Costs associated with the operation and management of the Convention Center.

e. Costs associated with promoting, marketing and otherwise encouraging use of the Convention Center.

f. General purposes of the Convention Center.

g. Costs of a project, as defined in the Act.

E. Reports, Returns, Payment and Collection of Tax.

1. All taxes collected by any Operator in accordance with this Ordinance shall constitute a trust fund for the County and such trust shall be enforceable against such person and any person receiving any part of such fund without consideration, or knowing that the Operator is committing a breach of trust; provided, however, that any person receiving payment of a lawful obligation of the Operator from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.

2. The Operator shall collect the tax imposed by this Ordinance from the Patron of the Room and pay it over to the County as provided hereinafter. The Operator, if he fails to collect the tax or pay it to the County when due, shall be liable to the County for the payment of the tax to the Treasurer as provided in this Section.

3. Every report and return shall be made upon a form developed and furnished by the Treasurer.

4. Every Operator shall transmit to the Treasurer, on or before the twenty-fifth (25th) day of each month, a return for the month preceding the month in which the return is made, which return shall report the amount of Consideration received for the Transactions during the month for which the return is made, the amount of tax due from the Operator for that month, and such other information as the Treasurer may require.

5. Every Operator, at the time of filing every return required by this Section shall compute and pay to the Treasurer the taxes shown as due on the return for the period for which the return is made.

6. Every Operator shall maintain records, which shall be made available to the Treasurer upon its request, which shall include, but not be limited to, the number of Transactions in each Hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each Occupancy, the Consideration received from all Transactions during the month for which each return is made, as well as such other information as the Treasurer may require.

7. If an Operator enters the business of the renting of Hotel Rooms subsequent to the effective date of this Ordinance, the first return shall be filed on the twenty-fifty (25th) day of the first month subsequent thereto. The first return and tax payment due shall be for all Transactions occurring during the preceding month based upon the actual taxable Transactions during the preceding month.

F. Effective Date.

This Ordinance shall take effect on March 1, 1997.


G. The proper officers of this County are hereby authorized and directed to take any and all action necessary to implement the Hotel Room Rental Tax in accordance with the provisions of the Act and in accordance with this Ordinance.

H. All ordinances, or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

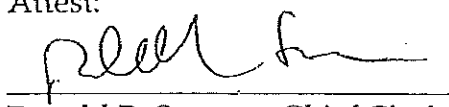
I. In the event any provision, section, sentence clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this County that the remainder of this Ordinance shall remain in full force and effect.

DULY ENACTED AND ORDAINED at a public meeting of the Board of County Commissioners of the County of Berks, Pennsylvania held on the 16th day of January, 1997.

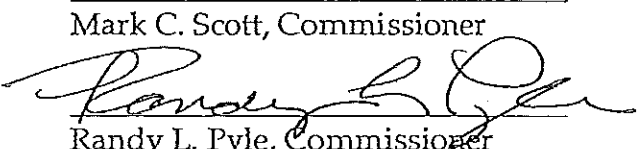
COUNTY OF BERKS


Glenn B. Reber, Chairman

Attest:


Ronald R. Seaman, Chief Clerk

Mark C. Scott, Commissioner


Randy L. Pyle, Commissioner