

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4377**

(BY DELEGATES STORCH, ANDERSON, TRECOST,  
MANCHIN, FLUHARTY, ZATEZALO, WELD AND D. EVANS)

[Originating in the Committee on Finance;

February 17, 2016.]



1 A BILL to amend and reenact §7-18-1 and §7-18-3 of the Code of West Virginia, 1931, as  
2 amended, all relating to exemptions from the hotel occupancy tax; eliminating exemption  
3 from the imposition of the hotel occupancy tax on consumers occupying a hotel room for  
4 thirty or more consecutive days; and excluding from the meaning of the term “hotel room”  
5 certain sleeping accommodations.

*Be it enacted by the Legislature of West Virginia:*

1 That §7-18-1 and §7-18-3 of said code be amended and reenacted, all to read as follows:

**ARTICLE 18. HOTEL OCCUPANCY TAX.**

**§7-18-1. Hotel occupancy tax.**

1 (a) *Authority to impose.* — On and after July 1, 1985, any county or municipality may  
2 impose and collect a privilege tax upon the occupancy of hotel rooms located within its taxing  
3 jurisdiction. ~~Such~~ The tax shall be imposed and collected as provided in this article.

4 (b) *Municipal tax.* — A municipal hotel tax shall be imposed by ordinance enacted by the  
5 governing body of the municipality, in accordance with the provisions of article eleven, chapter  
6 eight of this code. ~~Such~~ The tax shall be imposed uniformly throughout the municipality; and the  
7 tax shall apply to all hotels located within the corporate limits of the municipality, including hotels  
8 owned by the state or by any political subdivision of this state.

9 (c) *County tax.* — A county hotel tax shall be imposed by order of the county commission  
10 duly entered of record. ~~Such~~ The tax shall be imposed uniformly throughout the county: *Provided,*  
11 That no county commission may impose its tax on hotels located within the corporate limits of any  
12 municipality situated, in whole or in part, within the county: *Provided, however,* That the tax  
13 collected by a hotel owned by a municipality but located outside the corporate limits of ~~such~~ the  
14 municipality pursuant to this article shall be remitted to the municipality owning ~~such~~ the hotel for  
15 expenditure pursuant to the provisions of section fourteen of this article. The tax shall apply to all  
16 hotels located outside the corporate limits of a municipality, including hotels owned by the state  
17 or any political subdivision of this state.

18 (d) The tax shall be imposed on the consumer and shall be collected by the hotel operator  
19 as part of the consideration paid for the occupancy of a hotel room. : ~~Provided, That the tax shall~~  
20 ~~not be imposed on any consumer occupying a hotel room for thirty or more consecutive days.~~

**§7-18-3. Definitions.**

1 For the purposes of this article:

2 (a) "Consideration paid" or "consideration" means the amount received in money, credits,  
3 property or other consideration for or in exchange for the right to occupy a hotel room as herein  
4 defined.

5 (b) "Consumer" means a person who pays the consideration for the use or occupancy of  
6 a hotel room. The term "consumer" ~~shall~~ does ~~not be construed to~~ mean the government of the  
7 United States of America, its agencies or instrumentalities, or the government of the State of West  
8 Virginia or political subdivisions thereof.

9 (c) "Hotel" means any facility, building or buildings, publicly or privately owned (including  
10 a facility located in a state, county or municipal park), in which the public may, for a consideration,  
11 obtain sleeping accommodations. The term ~~shall include~~ includes but is ~~not be~~ limited to, boarding  
12 houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term  
13 "hotel" ~~shall include~~ includes state, county and city parks offering accommodations as herein set  
14 forth. The term "hotel" ~~shall not be construed to~~ does not mean any a hospital, sanitarium,  
15 extended care facility, nursing home or university or college housing unit, or any facility providing  
16 fewer than three rooms in private homes, not exceeding a total of ten days in a calendar year, nor  
17 any tent, trailer or camper campsites: *Provided, That* where a university or college housing unit  
18 provides sleeping accommodations for the general nonstudent public for a consideration, the term  
19 "hotel" ~~shall~~ does, if otherwise applicable, apply to ~~such~~ those accommodations for the purposes  
20 of this tax.

21 (d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity  
22 of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy,

23 receiver, executor or in any other capacity. Where the hotel operator performs his or her functions  
24 through a managing agent of any type or character other than an employee, the managing agent  
25 ~~shall also be deemed is~~ a hotel operator for the purposes of this article and ~~shall have~~ has the  
26 same duties and liabilities as his or her principal. Compliance with the provisions of this article by  
27 either the principal or the managing agent ~~shall is~~, however, ~~be~~ considered to be compliance by  
28 both.

29 (e) "Hotel room" means any room or suite of rooms or other facility affording sleeping  
30 accommodations to the general public and situated within a hotel. The term "hotel room" ~~shall not~~  
31 ~~be construed to mean~~ does not include:

32 (1) A banquet room, meeting room or any other room not primarily used for, or in  
33 conjunction with, sleeping accommodations; or

34 (2) Sleeping accommodations rented on a month-to-month basis or other rental  
35 arrangement for thirty days or longer at the inception at a boarding house, condominium, cabin,  
36 tourist home, apartment or home.

37 (3) Sleeping accommodations rented by a hotel operator to those persons  
38 directly employed by the hotel operator for the purposes of performing duties in support of the  
39 operation of the hotel or related operations.

40 (f) "Person" means any individual, firm, partnership, joint venture, association, syndicate,  
41 social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust,  
42 business trust, trustee, committee, estate, executor, administrator or any other group or  
43 combination acting as a unit.

44 (g) "State park" means any state-owned facility which is part of this state's park and  
45 recreation system established pursuant to this code. For purposes of this article, any recreational  
46 facility otherwise qualifying as a "hotel" and situated within a state park ~~shall be deemed is~~  
47 considered to be solely within the county in which the building or buildings comprising ~~said~~ the

48 facility are physically situated, notwithstanding the fact that the state park within which ~~said~~ the  
49 facility is located may lie within the jurisdiction of more than one county.

50 (h) "Tax," "taxes" or "this tax" means the hotel occupancy tax authorized by this article.

51 (i) "Taxing authority" means a municipality or county levying or imposing the tax authorized  
52 by this article.

53 (j) "Taxpayer" means any person liable for the tax authorized by this article.