AN EXPEDITED ACT to:

(1) require certain brokers of sleeping accommodations to collect and remit to the County a room rental tax for certain transients;
(2) make technical and clarifying amendments to the County room rental tax; and
(3) generally amend the law governing the room rental and transient tax.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-16

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Section 52-16 is amended as follows:

52-16. Room rental and transient tax.

(a) (1) [There is levied and imposed] The Director of Finance must impose on each [and every] transient a tax at the rate of 7 percent of the total amount paid for room rental, by or for the transient, [to any hotel or motel] for sleeping accommodations in any hotel or motel that is located in the County.

(2) The County Council by resolution, after a public hearing advertised under Section 52-17(c), may increase or decrease the rate of this tax.

(b) The following words and phrases, when used in this Section, have the following meanings:

[(1)] Transient: [Any person] An individual who, for any period of [not more than] 30 or fewer consecutive days, actually occupies a sleeping [accommodations in any hotel or motel providing sleeping accommodations for which a charge is made] accommodation.

[(2)] Person: A human being. "Person" does not include corporations, firms, associations, partnerships, companies, government bodies or agencies and other artificial persons. Broker: A person, other than the owner or operator of a hotel or motel, that receives payment for hotel or motel accommodations from a transient who is subject to tax under subsection (a).

[(3)] Hotel or motel:

(1) Any [public or private] hotel, inn, hostelry, tourist home
or house, motel, apartment hotel, rooming house, or other lodging place [within Montgomery County, offering sleeping accommodations for five (5) or more persons at any one time, that for compensation furnishes sleeping accommodations to any transient as defined in paragraph (1) of this subsection. “Hotel” or “motel” includes the owner or operator of the hotel or motel] that offers for compensation sleeping accommodations in the County to 5 or more transients at any one time.

(2) A hotel or motel does not include:

(A) a hospital, medical clinic, nursing home, rest home, convalescent home, assisted living facility, or home for elderly individuals; or

(B) a facility owned or leased by an organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code if the primary use of the facility is other than housing overnight guests.

Hotelkeeper: A person that:

(1) owns or operates a hotel or motel; or

(2) acts as a broker.

[(4)] Room rental: The total charge [made by any hotel or motel for sleeping accommodations or space furnished any transient] paid by a transient for a sleeping accommodation. [If the charge made by a hotel or motel includes] Room rental does not include any charge for services [or accommodations] in addition to [that] the charge for the use of sleeping space[.]
the]. The portion of the total charge, if any, [as] that represents
[only] other than room rental [shall] must be [distinctly set out
and] separately billed [by the hotel or motel as a separate item].

[(5)] Director: Director of [finance] Finance or the Director's
designee.

(c) Every [hotel or motel receiving] hotelkeeper that receives any
payment for a room rental [with respect to which tax is levied shall] that is subject to a tax under this Section must collect the amount of
tax imposed [by this section at the time ] under subsection (a) when
payment for the room rental is made. The hotelkeeper must hold the
taxes required to be collected by this Section [shall be deemed to be held] in trust for the County [by the hotel or motel required to collect tax] until remitted as required by this Section.

(d) [The hotel or motel collecting the tax shall submit a report upon the forms and set forth the information as the director may prescribe and require, showing the amount of room rental charges collected, and the tax required to be collected, and shall sign and deliver the same to the director with a remittance of the tax. The reports and remittances shall be made on or before the last day of each month covering the amount of tax collected during the preceding month. Any hotel or motel operating regularly throughout the year may make written application to the director to make reports and remittances on a quarterly basis in lieu of the monthly basis provided by this subsection. The approval or disapproval of the application is in the sole discretion of the director. The quarterly reports and remittances shall be made on or before the last days of April, July, October and
January in each year, and shall cover the amounts collected during the
three (3) months immediately preceding the months in which the
reports and remittances are required.]

(1) Each hotelkeeper must file a report on a form supplied by the
Director. The form must show the amount of room rental
payments collected, the amount of tax required by this Section
to be collected, and any other information the Director requires
to assure that the proper tax has been remitted to the County.

(2) Unless the Director accepts a quarterly report, each hotelkeeper
must file a report on or before the last day of each month
showing all room rentals during the preceding month.

(3) If a hotelkeeper requests, the Director may, in the Director’s
sole discretion, accept a quarterly report showing all room
rentals during the 3 months immediately before the month when
the report is due. Each hotelkeeper so approved must file a
quarterly report on or before the last day of April, July,
October, and January.

(4) Each hotelkeeper must remit the full amount of tax due with
each report.

(e) If any [hotel or motel shall fail or refuse to] hotelkeeper does not
remit to the [director] Director the tax required to be [collected and]
paid by this Section, or [to make] does not file a [proper] timely report
to the [director] Director, [within the time and in the amount specified
by this section, there shall be added] the Director must add to the tax
[by the director] due:
interest at the rate of one [(1)] percent per month on the amount
of the tax for each month or [portion] part of a month [from the
date upon which] after the tax is due[,] until the tax is paid and
the report is filed; and [there shall be added to the tax by the
director]

(2) a penalty of [five (5)] 5 percent of the amount of the tax per
month or [portion] part of a month, not to exceed a total of
[twenty-five (25)] 25 percent of the tax, until the tax is paid and
the report is filed.

(f) [If any hotel or motel shall fail or refuse to collect the tax and to
make, within the time provided by this section, any report and
remittance required by this section, the director shall proceed in a
manner as he may deem best to obtain facts and information on which
to base his estimate of the tax due. As soon as the director shall
procure the facts and information as the director is able to obtain upon
which to base the assessment of any tax payable by any hotel or motel
that has failed or refused to collect the same and to make the report
and remittance, the director shall proceed to determine and assess
against the hotel or motel the tax and penalties provided for by this
section and shall notify the hotel or motel by mail sent to its last
known place of address of the total amount of the tax and interest and
penalties, and that total amount shall be payable within ten (10) days
from the date of the notice.]

(1) If a hotelkeeper does not file a required report by the deadline
established under subsection (d), the Director may estimate the
amount of tax due. The Director may base the estimate on a
reasonable projection of room rentals, and may consider rentals reported by other hotelkeepers.

(2) The Director must send a notice of the estimated tax due, including interest and penalty, to the hotelkeeper's last known address. The hotelkeeper must pay the estimated tax, including any interest and penalty, assessed by the Director within 10 days after the notice is sent.

(g) (1) It shall be the duty of every hotel or motel liable for the collection and payment to the county of any tax imposed by this section to keep and] Each hotelkeeper must preserve, for [a period of three (3)] 3 years, [the suitable] all records [as may be] necessary to determine the amount of the tax [as the hotel or motel may have been liable for the collection of and payment to the county, which records the director shall have the right to inspect at all reasonable times] due under this Section.

(2) The Director may inspect any records required to be kept under this Section at any reasonable time.

(h) Whenever any hotel or motel required to collect and pay to the county a tax by this section shall cease doing business or otherwise dispose of its business, any tax payable under this section to the county shall become immediately due and payable and the hotel or motel shall immediately make a report and pay the tax due.] If a hotel or motel stops doing business or a hotelkeeper disposes of its business, the hotelkeeper must immediately file a report under subsection (d) and pay any tax due.

(i) [No tax shall be payable under this section on a room rental:
(1) In any hospital, medical clinic, nursing home, rest home, 
convalescent home, or home for aged persons;

(2) From a private nonprofit educational organization that:
   a. Is not organized or operated for the purpose of carrying 
on or promoting a trade, business, or religious 
philosophy; but
   b. Principally houses groups of young people exclusively 
for the purpose of developing leadership and citizenship 
skills and promotion of the general public welfare; or

(3) From a nonprofit charitable, religious, educational, recreational 
or literary organization, other than a country club, when the 
primary use of the facility is other than housing overnight 
guests.]

[j] It shall be the duty of the director to ascertain the name of every hotel 
or motel providing sleeping accommodations in Montgomery County, 
liable for the collection of the tax levied under this section that fails, 
refuses or neglects to collect the tax or to make, within the time 
provided by this section, the reports or remittances required by this 
section.]

[(k)] [Any hotel or motel or transient violating or failing to] Each 
hotelkeeper or transient that does not comply with any [of the 
provisions] provision of this Section [shall be subject to punishment 
for] has committed a class A violation [as set forth in section 1-19 of 
chapter 1 of the County Code. Each violation shall constitute a 
separate offense. A conviction shall not relieve any hotel or motel or 
transient from the payment, collection or remittance of the tax]. A
finding of violation under this subsection does not relieve any
hotelkeeper or transient of any tax, including any applicable interest
or penalty, due under this Section.

[(l) (j) At least 3.5% of the [[budgeted]] revenue from the tax levied under
this Section must be used for the Conference and Visitors Bureau,
Inc., as designated by the Council in a budget resolution to promote
travel to the County. The County Executive must report to the
Council on the use of these funds by March 15 each year.

Sec. 2. Expedited Effective Date.

The Council declares that this Act is necessary for the immediate protection
of the public interest. This Act takes effect on [[the date when it becomes law]]
June 1, 2009.

Approved:

Philip M. Andrews, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date