

By: Representatives Fredericks, Dedeaux, Guice, Ishee, Janus, Palazzo, Patterson, Peranich, Simpson, Upshaw

To: Local and Private Legislation; Ways and Means

HOUSE BILL NO. 1768

1 AN ACT TO AMEND SECTIONS 1 THROUGH 12 OF CHAPTER 1012, LOCAL  
2 AND PRIVATE LAWS OF 2004, TO REVISE THE DEFINITION OF THE TERM  
3 "HOTEL" OR "MOTEL" UNDER THE LAW THAT AUTHORIZES THE BOARD OF  
4 SUPERVISORS OF HARRISON COUNTY TO IMPOSE A SPECIAL TAX ON THE  
5 GROSS PROCEEDS OF ROOM RENTALS OF HOTELS OR MOTELS; TO DEFINE THE  
6 TERM "BONA FIDE WRITTEN LEASE"; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Sections 1 through 12 of Chapter 1012, Local and  
9 Private Laws of 2004, are amended as follows:

10 Section 1. For the purposes of Sections 1 through 12 of this  
11 act:

12 (a) "Board of supervisors" means the Board of  
13 Supervisors of Harrison County, Mississippi.

14 (b) "County" means Harrison County, Mississippi.

15 (c) "Hotel" or "motel" means and includes any  
16 individual or entity engaged in the business of furnishing or  
17 providing one or more \* \* \* rooms intended or designed for  
18 dwelling, lodging or sleeping purposes that at any one time will  
19 accommodate transient guests on a daily or weekly basis and that  
20 are known to the trade as such, and includes every building or  
21 other structure kept, used, maintained or advertised as, or held  
22 out to the public to be, a place where sleeping accommodations are  
23 supplied for pay or other consideration to transient or permanent  
24 guests or tenants who have not entered into a bona fide written  
25 lease for a term of more than thirty (30) consecutive days,  
26 whether the establishment is known as a hotel, apartment hotel,  
27 condominium, cooperative housing, time-share, bed and breakfast,  
28 rooming house, recreational vehicle park, cabin, inn, tavern, club  
29 resort, tourist home, tourist court, motel, court, motor court,

30 motor lodge or by any other like term, regardless of the number of  
31 rooms, lots, units, suites, spaces or cabins available. Nursing  
32 homes or institutions for the aged or infirm, as defined in  
33 Section 43-11-1, and personal care homes are excluded from the  
34 definition of the term "hotel" or "motel." Any facility or unit  
35 defined as a condominium by Section 89-9-5 which is leased for a  
36 period of more than thirty (30) days, as evidenced by a bona fide  
37 written lease, are excluded from the definition of the term  
38 "hotel" or "motel."

39 (d) "Bona fide written lease" means a written document  
40 that clearly demonstrates it is intended for the transient guest  
41 to have exclusive use of the leased unit in the hotel or motel.  
42 Factors to be considered in evaluating the intent of the parties  
43 include, but are not limited to:

44 (i) The length of the lease, including the  
45 beginning and ending dates;

46 (ii) A statement in the lease giving the lessee  
47 complete and exclusive use of the property for the entire duration  
48 of the lease;

49 (iii) Execution of the lease in good faith,  
50 without deceit or fraud;

51 (iv) A sufficient description in the lease of the  
52 leased property;

53 (v) A statement in the lease that the lease  
54 contains the complete and sole agreement;

55 (vi) A statement in the lease that the lessee will  
56 pay an agreed amount of rent;

57 (vii) A statement in the lease containing the due  
58 date, frequency and address for payment of the rent;

59 (viii) A statement in the lease specifying what  
60 conditions will result in early termination of the lease, the  
61 rights and obligations of the parties at termination and any  
62 penalties that will result from early termination; and

63                                   (ix) Signatures of the lessor and lessee on the  
64 lease.

65           Section 2. (1) Before the issuance of bonds provided for in  
66 Section 6 of this act, the board of supervisors shall levy, assess  
67 and collect from every person, firm, corporation or other entity  
68 operating hotels or motels in the county, a tax, in addition to  
69 all other taxes or assessments now imposed, which shall be equal  
70 to two percent (2%) of the gross proceeds from room rentals of all  
71 hotels or motels in the county.

72           (2) Persons, firms, corporations or other entities liable  
73 for the tax imposed by subsection (1) of this section shall add  
74 the amount of such tax to the room rental and in addition thereto  
75 shall collect, insofar as practicable, the amount of the tax due  
76 from the person renting the room at the time of payment therefor.

77           Section 3. (1) Before any tax authorized under Sections 1  
78 through 12 of this act may be imposed, the governing authorities  
79 shall adopt a resolution declaring its intention to levy the  
80 taxes, setting forth the amount of such tax to be imposed, the  
81 date upon which such taxes shall become effective and calling for  
82 a referendum to be held on the question. The date of the  
83 referendum shall be the first Tuesday after the first Monday in  
84 November 2004. Notice of such intention shall be published once  
85 each week for at least three (3) consecutive weeks in a newspaper  
86 published or having a general circulation in the county, with the  
87 first publication of such notice to be made not less than  
88 twenty-one (21) days before the date fixed in the resolution for  
89 the referendum and the last publication to be made not more than  
90 seven (7) days before the referendum. At the referendum, all  
91 qualified electors of the county may vote, and the ballots used in  
92 such referendum shall have printed thereon a brief statement of  
93 the amount and purposes of the proposed tax levy and the words  
94 "FOR THE HOTEL-MOTEL TAX TO FUND THE IMPROVEMENT AND EXPANSION OF  
95 THE MISSISSIPPI COAST COLISEUM AND CONVENTION CENTER" and, on a

96 separate line, "AGAINST THE HOTEL-MOTEL TAX TO FUND THE  
97 IMPROVEMENT AND EXPANSION OF THE MISSISSIPPI COAST COLISEUM AND  
98 CONVENTION CENTER", and the voters shall vote by placing a cross  
99 (X) or check (✓) opposite their choice on the proposition. When  
100 the results of any such referendum shall have been canvassed by  
101 the election commission and certified, the county may levy the  
102 taxes beginning on the first day of the second month following the  
103 referendum, only if at least sixty percent (60%) of the qualified  
104 electors who vote in the election vote in favor of the tax. No  
105 public funds shall be used for the purpose of promoting the  
106 adoption of the referendum and no employee of the county or any  
107 city located in the county, other than elected public officials,  
108 may promote the referendum during business hours.

109 (2) If a referendum has been held under the provisions of  
110 subsection (1) of this section, and the authority of the county to  
111 impose the convention center taxes has been denied by the electors  
112 of the county, a subsequent referendum on the issue may be held on  
113 the first Tuesday after the first Monday in November 2006. If a  
114 second referendum is held, and the authority to impose the  
115 convention center taxes has been denied again by the electors of  
116 the county, no further referendum may be held.

117 Section 4. (1) On or before the fifteenth day of the month  
118 prior to the imposition of the tax authorized in Section 2 of this  
119 act, the board of supervisors shall give written notification to  
120 the Chairman of the State Tax Commission of the date on which the  
121 tax will become effective.

122 (2) The tax shall be collected by and paid to the State Tax  
123 Commission in the same manner as state sales taxes are computed,  
124 collected and paid, and full enforcement provisions and all other  
125 provisions of Chapter 65, Title 27, Mississippi Code of 1972,  
126 shall apply as necessary to the implementation of Sections 1  
127 through 12 of this act.

128 (3) Except as otherwise provided in Section 27-3-58, the  
129 revenue from the special tax collected under the provisions of  
130 this section during the preceding month shall be paid to the  
131 county on or before the fifteenth day of each month.

132 (4) The proceeds of such taxes shall be placed into a  
133 separate fund apart from the county general fund and any other  
134 funds of the county, and shall be expended by the county as  
135 provided in Section 10(1) of this act.

136 (5) The tax imposed by Sections 1 through 12 of this act  
137 shall stand repealed on the first day of the month immediately  
138 succeeding the date the payment of the principal of, redemption  
139 premium, if any, and interest on the bonds issued pursuant to  
140 Sections 1 through 12 of this act have been paid in full. Any  
141 revenue from the tax remaining after the payment of the principal  
142 of, redemption premium, if any, and interest on the bonds issued  
143 pursuant to Sections 1 through 12 of this act have been paid in  
144 full shall be transferred to the county general fund.

145 Section 5. The proceeds of the bonds issued pursuant to  
146 Sections 1 through 12 of this act shall be utilized:

147 (a) For the purpose of defraying the cost of  
148 constructing, repairing, equipping, remodeling, enlarging,  
149 expanding or improving the Mississippi Coast Coliseum and  
150 Convention Center; and

151 (b) To retire bonds issued by the county after May 1,  
152 1995, but prior to the effective date of this act, to defray the  
153 cost of expanding the Mississippi Coast Coliseum and Convention  
154 Center.

155 Section 6. The board of supervisors is authorized and  
156 empowered, in its discretion, to issue general obligation bonds of  
157 the county in the aggregate principal amount not to exceed  
158 Sixty-eight Million Dollars (\$68,000,000.00) for the purposes  
159 provided for in Section 5 of this act. As used in Sections 1  
160 through 12 of this act, "bonds" shall be deemed to mean and

161 include bonds, refunding bonds, notes or certificates of  
162 participation. The full faith and credit of the county shall be  
163 irrevocably pledged for the payment of the principal of and  
164 interest on the bonds.

165 Section 7. Bonds authorized by Sections 1 through 12 of this  
166 act, other than refunding bonds, shall be issued pursuant to  
167 Sections 19-9-1 through 19-9-31 or as may be otherwise provided by  
168 law; however, no election shall be held under the provisions of  
169 Sections 19-9-1 through 19-9-31, upon the question of the issuance  
170 of bonds authorized under Sections 1 through 12 of this act.

171 Section 8. Bonds issued pursuant to Sections 1 through 12 of  
172 this act shall not be deemed indebtedness within the meaning of  
173 Section 19-9-5. Bonds issued pursuant to Sections 1 through 12 of  
174 this act shall be submitted by validation under Sections 31-13-1  
175 through 31-13-11.

176 Section 9. Bonds issued under Sections 1 through 12 of this  
177 act may be refunded at any time and from time to time by the  
178 county pursuant to an authorizing resolution of the board of  
179 supervisors, directing issuance of refunding bonds in accordance  
180 with the "Mississippi Bond Refinancing Act" (Section 31-27-1 et  
181 seq., Mississippi Code of 1972).

182 Section 10. (1) The avails of the tax provided for in  
183 Sections 1 through 12 of this act shall be used solely for the  
184 payment of the principal of, redemption premium, if any, and  
185 interest on the bonds, and for the payment of expenses of issuance  
186 thereof or reserve funds therefor.

187 (2) To the extent the proceeds of the tax provided for in  
188 Sections 1 through 12 of this act and any other amounts which may,  
189 from time to time, be available for the payment of the principal  
190 of, redemption premium, if any, and interest on the bonds,  
191 including any available revenues of the project, are not  
192 sufficient for such purpose, the board of supervisors shall levy a  
193 special ad valorem tax upon all of the taxable property within the

194 county which shall be sufficient, together with other money  
195 available for such purpose, to provide for the payment of the  
196 principal of, redemption premium, if any, and interest on such  
197 bonds according to the terms thereof.

198       Section 11. Sections 1 through 12 of this act shall be  
199 liberally construed for the purposes herein set out, the power  
200 hereby granted shall be deemed to be full and complete authority  
201 for the issuance of bonds under Sections 1 through 12 of this act  
202 and shall be construed as additional, cumulative and supplemental  
203 to any power granted to the county by any general or local and  
204 private act of the Legislature.

205       Section 12. The provisions of Sections 1 through 12 of this  
206 act shall be repealed in the event that two (2) referenda on the  
207 question of imposing convention center taxes have been denied by  
208 the electors of the county. If this event occurs, the Circuit  
209 Clerk of Harrison County shall notify the Chairmen of the Local  
210 and Private Committees of the House of Representatives and Senate  
211 of the Mississippi State Legislature.

212       **SECTION 2.** This act shall take effect and be in force from  
213 and after its passage.