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Chapter No. 955  
12/HR40/R947SG  
JP 105T

***HOUSE BILL NO. 1328***

Originated in House  Clerk

HOUSE BILL NO. 1328

AN ACT TO AMEND CHAPTER 1016, LOCAL AND PRIVATE LAWS OF 2004, AS AMENDED BY CHAPTER 962, LOCAL AND PRIVATE LAWS OF 2007, TO EXTEND THE DATE OF REPEAL ON THE PROVISION OF LAW THAT AUTHORIZES THE GOVERNING AUTHORITIES OF THE CITY OF PONTOTOC TO LEVY A TAX UPON THE GROSS SALES OF HOTELS, MOTELS AND RESTAURANTS; TO EXPAND THE USE OF THE TAX TO INCLUDE THE PROMOTION OF ECONOMIC DEVELOPMENT AND PARKS AND RECREATION; TO PROVIDE FOR AN INDIRECT REFERENDUM ON THE CONTINUATION OF THE LEVYING OF SUCH TAX; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Chapter 1016, Local and Private Laws of 2004, as amended by Chapter 962, Local and Private Laws of 2007, is amended as follows:

Section 1. As used in this act, the following terms shall have the following meanings unless a different meaning is clearly indicated by the context in which they are used:

(a) "Governing authorities" means the governing authorities of the City of Pontotoc, Mississippi.

(b) "Hotel" or "motel" means any establishment engaged in the business of furnishing or providing rooms intended or designed for dwelling, lodging or sleeping purposes to transient guests, where such establishment consists of six (6) or more guest rooms and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

(c) "Restaurant" means all places where prepared food and beverages are sold for consumption, whether such food is consumed on the premises or not. "Restaurant" as defined herein does not include any school, hospital, convalescent or nursing

home, or any restaurant-like facility operated by or in connection with a school, hospital, medical clinic, convalescent or nursing home providing food for students, patients, visitors and their families.

Section 2. (1) For the purpose of providing funds to promote tourism and parks and recreation, the governing authorities of the City of Pontotoc, Mississippi, are authorized, in their discretion, to levy and collect from the persons hereinafter specified a tax, which shall be in addition to all of the taxes and assessments imposed. The tax shall be imposed on the following persons:

(a) A tax upon every person, firm or corporation operating a motel or hotel in the City of Pontotoc, Mississippi, at a rate not to exceed two percent (2%) of the gross proceeds of room rentals for each such hotel or motel.

(b) A tax upon every person, firm or corporation operating a restaurant or such other business, where prepared food or drink is sold to the public in the City of Pontotoc, Mississippi, at a rate not to exceed two percent (2%) of the gross proceeds of the sales of such restaurant or business.

(2) Persons, firms or corporations liable for the levy imposed under subsection (1) of this section shall add the amount of the levy to the sales price of the rooms and products set out herein and shall collect, insofar as is practicable, the amount of the tax due by them from the person receiving the services or product at the time of payment therefor.

(3) Such tax shall be collected by and paid to the Department of Revenue on a form prescribed by the Department of Revenue in the manner that state sales taxes are computed, collected and paid; and full enforcement provisions and all other provisions of Chapter 65, Title 27, Mississippi Code of 1972, shall apply as necessary to the implementation and administration of this act.

(4) The proceeds of such tax, less three percent (3%) thereof which shall be retained by the Department of Revenue to defray the cost of collection, shall be paid to the governing authorities of the City of Pontotoc, Mississippi, on or before the fifteenth day of the month following the month in which collected.

(5) The proceeds of such tax shall not be considered by the City of Pontotoc as general fund revenues but shall be dedicated to and expended solely for the purposes specified in this section.

Section 3. (a) Before the tax authorized by this act may be imposed, the governing authorities shall adopt a resolution declaring their intention to levy the tax, setting forth the amount of such tax and establishing the date on which the tax initially shall be levied and collected. Notice of the proposed tax shall be published once each week for at least three (3) consecutive weeks in a newspaper having a general circulation in the City of Pontotoc. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed in the resolution on which the tax initially is to be levied and collected, and the last publication of the notice shall be made not more than seven (7) days before such date. If, within the time of giving notice, twenty percent (20%) or one thousand five hundred (1,500), whichever is less, of the qualified electors of the City of Pontotoc, file a written petition against the levy of such tax, then the tax shall not be levied unless authorized by a sixty percent (60%) majority of the qualified electors of the City of Pontotoc, voting at an election to be called and held for that purpose. At least thirty (30) days before the effective date of the tax, the governing authorities shall furnish to the Department of Revenue a certified copy of the resolution evidencing such tax.

(b) If the tax levied under this chapter was imposed without a vote of the electorate, the governing authorities shall, within sixty (60) days after the effective date of House Bill No.

1328, 2012 Regular Session, by resolution spread upon its minutes, declare the intention of the governing authorities to continue imposing the tax and describe the tax levy including the tax rate, annual revenue collections and the purposes for which the proceeds are used. The resolution shall be published once a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the municipality, with the first publication to be made within fourteen (14) days after the governing authorities adopt the resolution declaring their intention to continue the tax. If, on or before the date specified in the resolution for filing a written protest, which date shall be not less than forty-five (45) days and not more than sixty (60) days after the governing authorities adopt the resolution, twenty percent (20%) or one thousand five hundred (1,500), whichever is less, of the qualified electors of the municipality file a written protest against the imposition of the tax, then an election upon the levy and assessment of the tax shall be called and held as in the manner provided for in subsection (a) of this section, with the election to be conducted at the next special election day as such is defined by Section 23-15-833, Mississippi Code of 1972, occurring more than sixty (60) days after the date specified in the resolution for filing a written protest. If the requisite number of qualified electors vote against the imposition of the tax, the tax shall cease to be imposed on the first day of the month following certification of the election results by the election commissioners of the municipality to the governing authorities. The governing authorities shall notify the Department of Revenue of the date of the discontinuance of the tax and shall publish sufficient notice thereof in a newspaper published or having a general circulation in the municipality. If no protest is filed, then the governing authorities shall state that fact in their minutes and may continue the levy and assessment of the tax.

This paragraph (b) shall not apply if the revenue from the tax authorized by this chapter has been contractually pledged for the payment of debt incurred prior to the effective date of House Bill No. 1328, 2012 Regular Session, until such time as the debt is satisfied. Once the debt has been satisfied, the governing authorities, shall within sixty (60) days, adopt a resolution declaring the intention of the governing authorities to continue the tax which shall initiate the procedure described in paragraph (a) of this section.

Section 4. Accounting for receipts and expenditures of the funds herein described shall be made separately from the accounting of receipts and expenditures of the general fund and any other funds of the City of Pontotoc, Mississippi. The records reflecting the receipts and expenditures of the funds prescribed herein shall be audited annually by an independent certified public accountant, and the accountant shall make a written report of his audit to the governing authorities. The audit shall be made and completed as soon as practicable after the close of the fiscal year, and expenses of such audit shall be paid from the funds derived in accordance with this act.

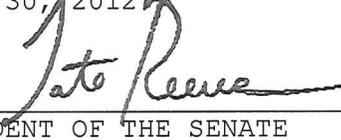
Section 5. The provisions of this act shall be repealed from and after July 1, 2016.

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

PASSED BY THE HOUSE OF REPRESENTATIVES  
April 27, 2012

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
April 30, 2012

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR

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