

Baldwin County Lodging Tax District

Section 45-2-243.20

Bureau established.

There is created and established in Baldwin County a public corporation, which shall be vested with the powers conferred upon it by this subpart. The corporation shall be known as the "**Alabama Gulf Coast Convention and Visitors Bureau**," or other name as the board of directors of the corporation may choose. The public corporation is hereinafter referred to as "the bureau."

(Act 93-706, p. 1352, §1.)

Section 45-2-243.21

Programs; contracts; powers.

(a) The bureau shall conduct programs, including but not limited to, programs of information and publicity designed to attract conventions and tourists to the area. The bureau shall conduct programs in Alabama and elsewhere, and expend its funds in the furtherance of the programs in Alabama and elsewhere.

(b) The bureau may enter into contracts with a person, firm, corporation, or association to carry out the purposes set forth in this subpart. No contract entered into by the bureau shall bind the State of Alabama, a county, or a municipality of the State of Alabama.

(c) The bureau shall have the following powers:

- (1) To sue and be sued.
- (2) To acquire property, rights, and interest, in property by gift, lease, or purchase.
- (3) To have a seal and alter the seal at pleasure.
- (4) To appoint officers, agents, employees, and attorneys and fix their compensation.
- (5) To make bylaws for the management and regulation of its affairs.

- (6) To enter into contracts and execute all instruments necessary or convenient to lease, purchase, and own real or personal property used in furtherance of the purposes for the accomplishment of which the bureau is created.

- (7) To accept or receive gifts, bequests and devises.

- (8) To borrow money, execute notes, and other evidence of indebtedness which may be required by the lender, and pledge anticipated revenue or income to secure payment of loans.

- (9) To do all things necessary or convenient to carry out the powers expressly given herein.

(d) The taxes which the Legislature imposes shall be payable to the bureau and the bureau shall use and apply the proceeds of the taxes for the purposes set forth in subsection (c).

(Act 93-706, p. 1352, §2.)

Section 45-2-243.22

Board of directors - Composition; expenses.

(a) The affairs of the bureau shall be managed by a board of directors, hereinafter called "the board," which shall consist of the following: At least one and no more than four board members representing each incorporated municipality located within the defined "lodging tax district" and at least one and no more than four board members from the unincorporated area of the "lodging tax district."

(b) The number of board members representing each municipality shall be computed as follows:

(1) One board seat for each one hundred thousand dollars (\$100,000) of annual lodging tax collections, collected pursuant to this subpart. The minimum board seats per municipality shall be one and the maximum board seats per municipality shall be four.

(2) The board members representing the incorporated municipalities shall be appointed by the governing body of their respective municipality. The initial board member terms shall be appointed one each for a one, two, three, and four-year term. Subsequent appointments shall be for a term of four years.

(3) Appointed board members shall represent the following from within their respective municipality:

a. No more than one board member from each municipality shall be a member of the elected body of the municipality.

b. No more than two board members from each municipality shall be engaged in the lodging business and subject to the taxing provisions of this subpart.

c. No more than one board member from each municipality shall be engaged in a business, other than a lodging business, whose customers or clients are primarily tourists or visitors.

(4) The number of board members representing the unincorporated area of the defined lodging tax district shall be computed as follows:

a. One board seat for each one hundred thousand dollars (\$100,000) of annual lodging tax collections, collected pursuant to this subpart. The minimum board seats for the unincorporated area shall be one and the maximum board seats for the unincorporated area shall be four.

b. The board members representing the unincorporated area of the defined lodging tax district shall be appointed by a majority vote of the Baldwin County legislative delegation for a term of

four years. The board members shall be engaged in the lodging business within the unincorporated area and subject to the taxing provisions of this subpart.

c. Board members whose terms have expired shall continue to serve until either replaced or reappointed by the appropriate governing body.

(5) The members of the board shall serve without compensation but they may be reimbursed for actual expenses incurred in the performance of their duties for the bureau.

(Act 93-706, p. 1352, §3.)

Section 45-2-243.23

Board of directors - Powers and duties.

(a) The power of the bureau shall be vested in and exercised by the board of directors pursuant to this subpart.

(b) The board shall employ agents, employees, officers, consultants, attorneys, and secure services and assistance the board deems necessary to enable it to conduct and engage in the activities and purposes for which this bureau is created.

(c) The board may delegate to one or more of its members, employees, agents, or officers, the duties it deems proper.

(d) The board shall elect a chair, a vice chair of the board who shall serve as chair in the event of the absence of the chair, a treasurer, and a secretary. One person may serve as treasurer and secretary. The treasurer and secretary may, but need not be, a member of the board.

(e) The board shall provide by resolution for the dates on which the chair, vice chair, treasurer, and secretary shall be elected, which resolution shall also specify the term or period for which each of the offices shall serve.

(f) The treasurer shall act as custodian of all of the funds, from whatever sources derived, received by the officer.

(g) The treasurer of the board shall execute a fidelity bond with a company authorized to write bonds in the State of Alabama being surety thereon, which bond shall be in an amount approved by the board.

(h) Contracts of the bureau shall be executed in the name of the bureau by the chair of the board and attested by the secretary of the board. The board may by resolution provide for a different form for the execution of contracts and for the execution by an officer or agent other than the chair and secretary. In no event shall a contract, irrespective of its form and of the persons executing it, be binding unless the contract was authorized or ratified by the board.

(Act 93-706, p. 1352, §4.)

Section 45-2-243.24

Lodging tax district established.

There is established a "lodging tax district" located in Baldwin County, to include all areas within the following boundaries:

- (1) All areas within the corporate limits of the City of Gulf Shores, Alabama.
- (2) All unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the City of Gulf Shores.
- (3) Other areas which choose to be included in this act pursuant to the following provisions:
 - a. If an incorporated municipality, a resolution adopted by a majority vote of the municipality governing body shall be recorded in the office of the Judge of Probate of Baldwin County, stating the inclusion of the municipality into the lodging tax district. The municipality need not be contiguous to the existing lodging tax district. Once the resolution is adopted and recorded, the area within the municipality shall be included in the lodging tax district, subject to the provisions of this subpart, and can only be removed or excluded by subsequent legislative action. A copy of the recorded resolution shall be forwarded to the Alabama Department of Revenue.
 - b. If an unincorporated area of Baldwin County, a resolution adopted by a majority vote of the Baldwin County Commission shall be recorded in the office of the Judge of Probate of Baldwin County stating the inclusion of the defined area into the lodging tax district. The defined area need not be contiguous to the existing lodging tax district. Once the resolution is adopted and recorded, the unincorporated area defined shall be subject to the provisions of this subpart and can only be removed or excluded by subsequent legislative action. A copy of the recorded resolution shall be forwarded to the Alabama Department of Revenue.

(Act 93-706, p. 1352, §5.)

Section 45-2-243.25

Privilege or license tax on lodging.

In addition to all other taxes imposed by law, there is levied a privilege or license tax in the amount prescribed against every person within the defined lodging tax district engaging in the business of renting or furnishing a room or rooms, lodging or accommodations, to a transient in a hotel, motel, inn, condominium, house, tourist court, or another place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The amount of the tax shall be equal to two percent of the charge for the rooms, lodgings, or accommodations, including the charge for use of rental of personal property and services furnished in the room or rooms.

(Act 93-706, p. 1352, §6.)

Section 45-2-243.26

Exemptions.

(a) There are exempted from the provisions of the tax levied by this subpart and from the computation of the amount of the tax levied or payable the following: Charges for property sold or services furnished which are required to be included in the tax levied by the state sales tax act; charges for the rental of rooms, lodgings, or accommodations to a person for a period of 30 continuous days or more pursuant to the exemption provision of Alabama's transient occupancy tax, Section 40-26-1. A subsequent amendment or change to the Alabama transient occupancy tax shall also have the effect of similarly changing the exemption provision of this subpart.

(b) Notwithstanding the aforesaid provisions of this section, the tax shall not apply to the rental of living accommodations which are intended primarily for rental to persons as their principal or permanent place of residence.

(Act 93-706, p. 1352, §7.)

Section 45-2-243.27

Payment and collection of tax.

(a) The taxes levied by this subpart, except as otherwise provided, shall be due and payable to the Department of Revenue on or before the 20th day of the month next succeeding the month in which the tax accrues. On or before the 20th day of each month after the effective date of the taxes, every person on whom the tax is levied by this subpart shall render to the Department of Revenue on a form prescribed by the department, a true and correct statement showing the gross proceeds of the business subject to the tax for the then preceding month, together with other information as the department demands and requires. At the time of making the monthly report, the taxpayer shall compute and pay to the department the amount of taxes shown due. A person subject to the tax who conducts business on a credit basis may defer reporting and paying the tax until after the person has received payment of the items, articles, or accommodations furnished. In the event he or she defers reporting and paying the taxes, he or she shall thereafter include in each monthly report all credit collections made during the then preceding month and shall pay the amount of taxes computed thereon at the time of filing the report.

(b) It shall be the duty of every person engaged or continuing in a business subject to the taxes levied by this subpart to keep and preserve suitable records of the gross proceeds of the business and other books or accounts necessary to determine the amount of tax for which he or she is liable pursuant to this subpart. The records shall be kept and preserved for a period of two years and shall be open for examination at all times by the Department of Revenue or by a duly authorized agent, deputy, or employee of the department.

(c) A person who fails to pay the tax levied by this subpart within the time required by this subpart shall pay in addition to the tax a penalty of 10 percent of the amount of tax due, together with interest from the date on which the tax became due and payable at the rate due and payable on the state lodging tax. The penalty and interest shall be assessed and collected as a part of the

tax. The Department of Revenue may, if good and sufficient reason be shown, waive or remit the penalty or a portion of the penalty.

(Act 93-706, p. 1352, §8.)

Section 45-2-243.28

Application of subpart.

All provisions of the state lodging tax statutes with respect to payment, assessment, and collection of the state lodging tax, making of reports and keeping and preserving records, interest after due date of tax, or otherwise; the promulgation of rules and regulations with respect to the state lodging tax; and the administration and enforcement of the state lodging tax statutes, which are not inconsistent with the provisions of this subpart when applied to the tax levied by this subpart, shall apply to the levied district tax. The Commissioner of Revenue and the Department of Revenue shall have and exercise the same powers, duties, and obligations with respect to the district taxes levied as imposed on the commissioner and the department, respectively, by the state lodging tax statutes. All provisions of the state lodging tax statutes that are made applicable to this subpart, to the district taxes levied, and to the administration of this subpart are incorporated herein by reference and made a part as if fully set forth.

(Act 93-706, p. 1352, §9.)

Section 45-2-243.29

Severability.

None of the provisions of this subpart shall be applied in a manner to violate the Commerce Clause of the United States Constitution. If a provision of this subpart is held invalid, the invalidity shall not affect the remaining provisions of this act.

(Act 93-706, p. 1352, §10.)

Section 45-2-243.30

Disposition of funds.

The Department of Revenue shall charge and deduct from the proceeds of the tax levied, an amount equal to the cost to the department of making the collections and the charge shall not exceed five percent of the total amount of tax collected. Following that deduction, the department shall pay the remainder of the tax proceeds to the bureau.

(Act 93-706, p. 1352, §11.)