



SARATOGA COUNTY BOARD OF SUPERVISORS

RESOLUTION 29 - 2016

Introduced by Supervisors Lewza, Barrett, DeLucia, Johnson, Lawler, Peck and Pemrick

INTRODUCING A PROPOSED LOCAL LAW IDENTIFIED AS INTRODUCTORY NO. 1, PRINT NO. 1 OF 2016, ENTITLED “A LOCAL LAW AMENDING LOCAL LAW NO. 7 OF 1977, AS LAST AMENDED BY LOCAL LAW NO. 2 OF 2012, TO REVISE THE MANNER IN WHICH THE BOARD OF SUPERVISORS ALLOCATES ROOM OCCUPANCY TAX REVENUES, TO REVISE THE MEMBERSHIP COMPOSITION OF THE COMMITTEE APPOINTED BY THE BOARD OF SUPERVISORS TO ADVISE THE BOARD ON EXPENDITURES MADE BY THE COUNTY FOR THE PROMOTION OF TOURISM AND CONVENTIONS, AND TO CLARIFY THAT LIMITED LIABILITY COMPANIES ARE SUBJECT TO LOCAL LAW NO. 7 OF 1977, AS AMENDED” AND SETTING A PUBLIC HEARING THEREON

WHEREAS, in 1977 Saratoga County obtained home rule legislation authorizing the County to adopt a local law imposing an occupancy tax such as the State Legislature would have the power and authority to impose upon persons occupying a tourist home, inn, hotel or motel room in the County; and

WHEREAS, pursuant to said home rule authority, the Saratoga County Board of Supervisors adopted Local Law No. 7 of 1977 imposing a 1% tax on the occupancy of a room or rooms in a tourist home, hotel or motel in Saratoga County; and

WHEREAS, Local Law No. 7 of 1977 was last amended by Local Law No. 2 of 2012 to require room remarketers to collect the County’s room occupancy tax on the amounts charged to their customers for their sales of room occupancy in Saratoga County; and

WHEREAS, subdivision nine of Tax Law §1202-g currently provides that revenues resulting from the imposition of the room occupancy tax shall be credited to and deposited to the general fund of the County, with the net collections therefrom to be allocated by the Saratoga County Board of Supervisors only for the promotion of tourism and conventions, with the exception of net collections designated by Tax Law §1202-g (1-a), (1-b) and (1-c) to be paid to the City of Saratoga Springs general fund, the City of Saratoga Springs convention and tourism bureau, and the Saratoga Springs City Center; and

WHEREAS, in accordance subdivision nine of Tax Law §1202-g, Section 12 of Local Law No. 7 of 1977 provides that the net collections derived from the room occupancy tax, after

payment to the County for administration and collection costs, shall be allocated by the Board of Supervisors only for the promotion of tourism and conventions; and

WHEREAS, in accordance with the foregoing provisions of Tax Law §1202-g and Local Law No. 7 of 1977, the Board of Supervisors has allocated the net collections from the room occupancy tax to various organizations involved in the promotion of tourism and conventions, such as the Saratoga Convention and Tourism Bureau and the Saratoga County Chamber of Commerce; and

WHEREAS, subdivision nine of Tax Law §1202-g and Section 12 of Local Law No. 7 of 1977 further require that the Saratoga County Board of Supervisors appoint a committee of nine persons, four of whom shall be members of the Board of Supervisors and five of whom shall be owners, managers or, if such facility be owned by a corporation or partnership, partners or officers, of facilities paying such tax, to advise and recommend expenditures made by the County for the promotion of tourism and conventions in Saratoga County; and

WHEREAS, pursuant to Resolution 65-2014, this Board of Supervisors adopted the Saratoga County Economic Development Strategic Plan; and

WHEREAS, the Saratoga County Economic Development Strategic Plan identifies Saratoga County's economy as being built on three pillars: tourism, agriculture, and business and industry; and

WHEREAS, in accordance with a recommendation made in the Saratoga County Economic Development Strategic Plan, this Board of Supervisors authorized and directed pursuant to Resolution 106-2014 the formation of the Saratoga County Prosperity Partnership, Inc., a local development corporation organized pursuant to Not-For-Profit Corporation Law §1411, to undertake certain projects and initiatives for the economic benefit of Saratoga County; and

WHEREAS, since the enactment of Tax Law §1202-g and Local Law No. 7 of 1977, prominent tourism promotion entities have been formed in Saratoga County such as the Saratoga Springs City Center Authority in 1982 and the Saratoga Convention and Tourism Bureau in 1985, which entities have played a critical role in the local economy by promoting and marketing Saratoga County and the City of Saratoga Springs as a world-class destination for meetings, conventions, and groups; and

WHEREAS, it is appropriate that such key tourism promotion organizations such as the Saratoga County Tourism and Convention Bureau, the Saratoga Springs City Center Authority, and the Saratoga County Chamber of Commerce have a voice in advising this Board of Supervisors as to how room occupancy tax revenues should be expended in the promotion of tourism and conventions in Saratoga County; and

WHEREAS, pursuant to Resolution 37-2015 and Resolution 82-2015 this Board of Supervisors requested enactment of state legislation amending Tax Law §1202-g, subdivision nine, to: 1) authorize the Saratoga County Board of Supervisors to allocate the net collections received from the County's Room Occupancy Tax (excluding those amounts designated by Tax Law §1202-g to be paid to the City of Saratoga Springs general fund, the City of Saratoga Springs convention and tourism bureau, and the Saratoga Springs City Center) fifty percent (50%) for the promotion of tourism and conventions and fifty percent (50%) to the Saratoga County Prosperity Partnership, Inc. for the promotion of tourism and other economic

development-related purposes; and 2) revise the membership composition of the nine member committee appointed by the Board of Supervisors to advise the Board on expenditures made by the County for the promotion of tourism and conventions to consist of four members of the Board of Supervisors who shall include the Chair of the Board of Supervisors, the Chair of the Board's Economic Development Committee, the Chair of the Board's Law and Finance Committee, and one member of the Board of Supervisors who also serves as a Director of the Saratoga County Prosperity Partnership, Inc.; one representative from Saratoga County Chamber of Commerce, one representative from the Chamber of Southern Saratoga County, one representative from the Saratoga Convention and Tourism Bureau, one representative from the Saratoga Springs City Center Authority, and the Saratoga County Treasurer; and

WHEREAS, in accordance with the foregoing home rule legislation request of this Board, the State Legislature passed and the Governor signed into law Chapter 262 of the Laws of 2015 enacting the requested amendments to Tax Law §1202-g, thereby authorizing this Board to amend Local Law No. 7 of 1977 accordingly; and

WHEREAS, Chapter 262 of the Laws of 2015 was signed into law by the Governor on September 25, 2015; and

WHEREAS, Chapter 262 of the Laws of 2015 provides that it shall take effect ninety (90) days after it is signed into law; and

WHEREAS, there has arisen a question as to the applicability of Local Law 7 of 1977 to tourist homes, inns, hotels or motels owned by limited liability companies, given that limited liability companies were not legislatively authorized until October 24, 1994; and

WHEREAS, a proposed Local Law, identified as Introductory No. 1, Print No. 1 of 2016, entitled "A Local Law Amending Local Law No. 7 of 1977, as Last Amended by Local Law No. 2 of 2012, to Revise the Manner in Which the Board of Supervisors Allocates Room Occupancy Tax Revenues, to Revise the Membership Composition of the Committee Appointed by the Board of Supervisors to Advise the Board on Expenditures Made by the County for the Promotion of Tourism and Conventions and to Clarify That Limited Liability Companies are Subject to Local Law No. 7 of 1977, as Amended", is being introduced before this Board and is attached hereto as Schedule A, which, if adopted by this Board, will amend Local Law No. 7 of 1977 in accordance with the provisions of the newly amended subdivision nine of Tax Law §1202-g; now, therefore, be it

RESOLVED, that a proposed Local Law, identified as Introductory No. 1, Print No. 1 of 2016, entitled "A Local Law Amending Local Law No. 7 of 1977, as Last Amended by Local Law No. 2 of 2012, to Revise the Manner in Which the Board of Supervisors Allocates Room Occupancy Tax Revenues, to Revise the Membership Composition of the Committee Appointed by the Board of Supervisors to Advise the Board on Expenditures Made by the County for the Promotion of Tourism and Conventions and to Clarify That Limited Liability Companies are Subject to Local Law No. 7 of 1977, as Amended", which is attached hereto as Schedule A, is hereby introduced before the Saratoga County Board of Supervisors, and this Board of Supervisors shall hold a Public Hearing thereon on February 10, 2016 at 4:25 p.m. at the Meeting Room of the Saratoga County Board of Supervisors at 40 McMaster Street, Ballston Spa, New York, 12020, on the matter of the adoption of such proposed Local Law, and the Clerk of the Board of Supervisors be and is hereby directed to give notice of such Public Hearing in the manner prescribed by law.

BUDGET IMPACT STATEMENT: No budget impact.

SCHEDULE A

INTRODUCTORY NO. 1

PRINT NO. 1 OF 2016

INTRODUCED BY: Supervisors Lewza, Barrett, DeLucia, Johnson, Lawler, Peck and Pemrick

COUNTY OF SARATOGA
LOCAL LAW NO. 1 OF 2016

**A LOCAL LAW AMENDING LOCAL LAW NO. 7 OF 1977,
AS LAST AMENDED BY LOCAL LAW NO. 2 OF 2012, TO
REVISE THE MANNER IN WHICH THE BOARD OF
SUPERVISORS ALLOCATES ROOM OCCUPANCY
TAX REVENUES, TO REVISE THE MEMBERSHIP
COMPOSITION OF THE COMMITTEE APPOINTED
BY THE BOARD OF SUPERVISORS TO ADVISE THE
BOARD ON EXPENDITURES MADE BY THE COUNTY FOR
THE PROMOTION OF TOURISM AND CONVENTIONS, AND
TO CLARIFY THAT LIMITED LIABILITY COMPANIES ARE
SUBJECT TO LOCAL LAW NO. 7 OF 1977, AS AMENDED**

BE IT ENACTED by the Saratoga County Board of Supervisors as follows:

SECTION 1. That subdivision 12 of Section 2 of Local Law No. 7 of 1977, as last amended by Local Law No. 2 of 2012, be amended to read as follows:

12. Disposition of Revenues. All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of the county and shall be credited to and deposited in the general fund of the county. The net collections derived from the tax shall be allocated, after payment to the county for administration and collection costs, by the board of supervisors of Saratoga County fifty percent for the promotion of tourism and conventions and fifty percent to the Saratoga County Prosperity Partnership, Inc. for the promotion of tourism and other economic development-related purposes. The board of supervisors shall appoint an advisory committee of nine persons, four of whom shall be members of the board of supervisors and who shall include the chair of the board of supervisors, the chair of the board's economic development committee, the chair of the board's law and finance committee, and one member of the board of supervisors who also serves as a director of the Saratoga County Prosperity Partnership, Inc., and five of whom shall include a representative from the Saratoga County Chamber of Commerce, a representative from the Chamber of Southern Saratoga County, a representative from the Saratoga Convention and Tourism Bureau, a representative from the Saratoga Springs City Center Authority, and the Saratoga County Treasurer.
The advisory committee shall advise and recommend expenditures made by the county for the promotion of tourism and conventions in Saratoga County.

SECTION 2. That paragraph (a) of subdivision 1 of Section 2 of Local Law No. 7 of 1977, as last amended by Local Law No. 2 of 2012, be amended to read as follows:

Section 2. Text

1. Definitions. When used in this local law, the following terms shall mean:

- (a) Person. An individual, partnership, society, association, joint stock company, corporation, limited liability company, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

SECTION 3. That paragraph (a) of subdivision 16 of Section 2 of Local Law No. 7 of 1977, as last amended by Local Law No. 2 of 2012, be amended to read as follows:

16. Proceedings to recover tax.

- (a) Whenever any operator, any officer of a corporate operator, any manager or member-manager of a limited liability company, or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as therein provided, the County Attorney shall, upon the request of the County Treasurer bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Saratoga in any court of the state of New York or any other state or of the United States. If, however, the County Treasurer in his discretion believes that any such operator, officer, manager or member-manager, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and/or that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

SECTION 4. That paragraph (b) of subdivision 20 of Section 2 of Local Law No. 7 of 1977, as last amended by Local Law No. 2 of 2012, be amended to read as follows:

20. Penalties and interest.

- (b) Any operator or occupant, any officer of a corporate operator or occupant, and any manager or member-manager of a limited liability company failing to file a return required by this local law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this local law which is willfully false, and any operator, any officer of a corporate operator, and any manager or member-manager of a limited liability company operator willfully failing to file a bond required to be filed pursuant to section eleven of this local law, or failing to file a registration certificate and such data in connection therewith as the County Treasurer may by regulation or otherwise require or to display or surrender the certificate of authority as required by this local law or assigning or transferring such certificate of authority and any operator, any officer of a corporate operator, and any manager or member-manager of a limited liability company operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator, or willfully failing to collect such tax from the occupant, and any operator, any officer of a corporate operator, and any manager or member-manager of a limited

liability company operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this local law, and any operator failing to keep the records required by subdivision eight of section two of this local law, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment. To the extent permitted by federal or state law, officers of a corporate operator and a member or member-manager of a limited liability company operator shall be personally liable for the tax collected or required to be collected by such corporation or limited liability company under this local law, and subject to the penalties herein above imposed.

SECTION 5. This Local Law shall take effect on March 1, 2016, subject to its filing in the Office of the Secretary of State of the State of New York.

SECTION 6. Upon its effective date as provided in Section 3 herein, this Local Law shall become incorporated into the Code of Saratoga County and made a part thereof.