

ORDINANCE NO. 2022-02

AN ORDINANCE OF THE COUNTY OF BOYD, KENTUCKY, LEVYING AN ADDITIONAL TRANSIENT ROOM TAX PURSUANT TO KRS 91A.392 TO BE APPLIED TOWARD THE RETIREMENT OF BONDS TO BE ISSUED BY THE CITY OF ASHLAND, KENTUCKY, TO REFUND OUTSTANDING BONDS OF THE COUNTY AND TO FINANCE THE DESIGN AND CONSTRUCTION OF A CONVENTION CENTER PROJECT IN THE DOWNTOWN BUSINESS DISTRICT OF THE CITY.

Recitals

A. Ordinance Number 2011-1 of Boyd County, Kentucky (the "County") (i) levied an additional transient room tax pursuant to KRS 91A.392 at the rate of 2% of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business within the County as motor courts, motels, hotels, inns, or similar accommodation businesses and (ii) provided that the money collected from such 2% additional transient room tax was to be applied towards the retirement of the County's General Obligation Refunding and Improvement Bonds, Series 2011B (Paramount Arts Center Project) (the "Series 2011B Bonds") issued to finance the acquisition, construction, renovation, and equipping of renovations and additions to the fine arts center useful to the promotion of tourism located in the central business district of the City of Ashland, Kentucky (the "City") and known as the Paramount Arts Center (the "Prior Project").

B. Until such transient room tax revenues are applied as hereinafter provided, the County holds and will continue to hold transient room tax revenues levied and collected pursuant to KRS 91A.392 and Ordinance Number 2011-1 and which have been accumulated in a segregated account and not yet applied to debt service coming due on the Series 2011B Bonds (all such revenues collected and accumulated while such tax remains in effect being hereinafter referred to as the "Prior Accumulated Room Tax Revenues").

C. The City intends to issue bonds (the "Refunding Bonds"), payable in whole or in part from the proceeds of an additional transient room tax to be levied by the County pursuant to KRS 91A.392 at the rate of 2%, for the purpose of (1) together with the Prior Accumulated Room Tax Revenues and any other available amounts, refunding and retiring the Series 2011B Bonds and (2) financing in whole or in part the design and construction of a convention center useful to the promotion of tourism and located in the central business district of the City (the "Project").

D. Under KRS 91A.392(3), the transient room tax levied by the County pursuant to Ordinance Number 2011-1 shall be void upon the retirement of the Series 2011B Bonds and the County is thereupon required to repeal Ordinance Number 2011-1.

Be it ordained by the fiscal court of County of Boyd, Commonwealth of Kentucky:

SECTION 1. Application of Prior Accumulated Room Tax Revenues. If the City issues the Refunding Bonds and proceeds thereof are used to refund and retire the Series 2011B Bonds, the Prior Accumulated Room Tax Revenues, together with such proceeds of the Refunding Bonds and any other amounts available for such purpose, shall be applied to the payment and retirement of the Series 2011B Bonds.

SECTION 2. Repeal of Existing 2% Additional Transient Room Tax. Pursuant to KRS 91A.392(3), the additional transient room tax levied by the County pursuant to KRS 91A.392 and Ordinance Number 2011-1 shall be void and such Ordinance is hereby repealed, conditional and effective, however, upon the full payment and retirement of the Series 2011B Bonds in accordance with their terms.

SECTION 3. Levy of New 2% Additional Transient Room Tax. If the additional transient room tax levied by the County pursuant to KRS 91A.392 and Ordinance Number 2011-1 is repealed and such repeal becomes effective as provided in Section 2 hereof, the County hereby levies, effective immediately upon such repeal, a new additional transient room tax pursuant to KRS 91A.392 and this Ordinance at the rate of 2% of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business within the County as motor courts, motels, hotels, inns, or similar accommodation businesses and the money collected from the new additional transient room tax levied by this Ordinance shall be applied to the payment of the principal of and interest on the Refunding Bonds.

SECTION 4. Administration of New 2% Additional Transient Room Tax.

A. The additional 2% transient room tax levied by this Ordinance shall be payable to and collected by the Boyd County Treasurer (the "Treasurer") on a monthly basis. The Treasurer shall remit the tax paid and collected pursuant to this Ordinance to the bank or trust company serving as the paying agent or indenture trustee for the Refunding Bonds to be applied to the payment of the principal of and interest due on the Refunding Bonds or to fund any reserve for the payment of debt service on the Refunding Bonds. Pursuant to KRS 91A.392(2)(b)(2), if, in any fiscal year, the money collected from the tax levied by this Ordinance exceeds the amount required to satisfy the debt service on the Refunding Bonds for that fiscal year, all or a portion of the excess amount collected for that fiscal year may be used to defray the costs to operate, renovate, or expand the Project or the Prior Project, if an amount equal to one year's required debt service is held in reserve to satisfy any future debt service obligations of the Refunding Bonds.

B. All persons, companies, corporations, or other similar persons, groups, or organizations doing business within the County as motor courts, motels, hotels, inns or similar accommodation businesses shall file a monthly return with the Treasurer, by the twentieth (20th) day of the following month. If the twentieth (20th) day falls on a Saturday, Sunday, or legal holiday, the report shall be due by the next day which is not a Saturday, Sunday or a legal holiday. Payment of the tax levied by this Ordinance shall accompany the return. The taxpayer shall attach to such return a copy of its most recent Kentucky sales and use tax return.

VOTING:

FIRST READING

Commissioner Brown YES

Commissioner Stapleton YES

Commissioner Watts YES

Judge Chaney YESYES

SECOND READING

Commissioner Brown YES

Commissioner Stapleton YES

Commissioner Watts YES

Judge Chaney YES

C. A penalty equal to ten percent (10%) of the amount of tax due shall be assessed on any unpaid tax which is not paid by the due date, together with interest on the amount of tax due computed from the due date of the tax at the rate of eight percent (8%) per annum on any tax which is not paid within sixty (60) days of the due date.

D. Every person subject to the tax levied by this Ordinance shall maintain books and records substantiating all amounts and other information reported on the monthly return required to be filed under this Ordinance. Authorized representatives of the County may examine and make copies of such books and records upon at least ten (10) days prior written notice. Any person who fails to maintain the books and records required by this Ordinance shall be assessed a penalty not exceeding Ten Dollars (\$10) for each day the taxpayer fails to maintain such books and records. Any person who refuses to permit an authorized representative of the County to examine or copy any such books and records shall be assessed a penalty of not exceeding Ten Dollars (\$10) for each day during which such refusal continues.

SECTION 5. Termination of Additional Transient Room Tax Levied by this Ordinance. The tax levied by this Ordinance shall be levied and collected until such time as all principal of and interest on the Refunding Bonds has been paid in full and all fees associated with the payment of the Refunding Bonds have been paid. Upon the retirement of the Refunding Bonds and the payment of such fees, the tax levied by this Ordinance shall automatically be void and shall no longer be collected. At such time, the Fiscal Court shall take action to repeal this Ordinance, provided, however, that the failure to take such action shall not permit the continued levy and collection of such tax.

SECTION 6. Conflicting Actions Repealed. All ordinances, resolutions, municipal orders, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 7. Partial Invalidity. If any section, paragraph, or other provision of this Ordinance shall be held invalid, the invalidity of such provision shall not affect any of the remaining provisions.

SECTION 8. Effective Date. This Ordinance shall be in full force and effect from and after its adoption and publication of a summary hereof as provided by law.

This Ordinance was introduced, seconded, and given first reading at a duly convened meeting of the Fiscal Court of the County of Boyd, Kentucky, held on JANUARY 13 20 22, and given second reading and adopted at a duly convened meeting of such Fiscal Court held on FEBRUARY 8, 20 22.



Judge/Executive

Attest:



Sara Tussey
Fiscal Court Clerk

CERTIFICATION

The undersigned Fiscal Court Clerk of the County of Boyd, Kentucky, does hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Fiscal Court of the County of Boyd, Kentucky, at a duly convened meeting properly held on FEBRUARY 8, 2022 signed by the Judge/Executive, and now in full force and effect, as shown by the official records in my custody and under my control.


Fiscal Court Clerk

Dated: FEBRUARY 8, 2022

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