

May 25, 2006
OPINION NUMBER 06-0106

160 TAXATION – Sales Tax

Ms. Katherine Mayor
Washington Parish Tourism Commission
900 Mill Street
Franklinton, Louisiana 70438

La. Const. Art. VI, Sec. 29
La. R.S. 43:4574; 43:4574.1.1

The Washington Parish Tourism Commission may impose a hotel occupancy tax, not to exceed three percent, by ordinance or resolution.

Dear Ms. Mayor:

You requested an Attorney General's opinion regarding the Washington Parish Tourism Commission's ("Commission") authority to impose a local hotel occupancy tax. You indicate that, currently, there is no local hotel occupancy tax imposed in Washington Parish. You question whether the Commission is legally authorized to impose a hotel occupancy tax, and if so, how does the Commission impose the tax.

The Commission was created as a special district by La. R.S. 33:4574. The Commission's authority to levy an occupancy tax is governed by R.S. 33:4574.1.1, which provides in pertinent part:

A. For the purposes set forth in Paragraph (F)(3) of this Section, a commission created pursuant to R.S. 33:4574(B) is authorized to levy and collect a tax upon the occupancy of hotel rooms, motel rooms, and overnight camping facilities within the jurisdiction of the commission. Such tax shall not exceed the following percentages of the rent or fee charged for such occupancy:

* * * * *

(34) Washington Parish Tourism Commission, three percent.

* * * * *

B. For each one percent of occupancy tax levied under this Subsection by a commission, one percent of occupancy tax levied in the parish pursuant to the authority granted in R.S. 33:4574.1, 4574.7, 4574.8, or any local, special, or general law shall be eliminated.

C. (1) The word "hotel" as used in this Section shall mean and include any establishment, either public or private, engaged in the business of furnishing or providing rooms and overnight camping facilities intended or designed for dwelling, lodging, or sleeping purposes to transient guests where such establishment consists of two 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.

(2) Notwithstanding any other provision of law to the contrary, in the parish of Lafourche the word "hotel" as used in this Section shall mean and include any establishment, either public or private, engaged in the business of furnishing or providing rooms and overnight camping facilities intended or designed for dwelling, lodging, or sleeping purposes to transient guests where such establishment consists of one 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.

D. The tax shall be paid by the person who exercises or is entitled to occupancy of the hotel room, and shall be paid at the time the rent or fee of occupancy is paid. The word "person" as used herein shall have the same definition as that contained in R.S. 47:301(8).

F. (1) Commissions provided for in R.S. 33:4574(B) shall impose the tax by resolution or ordinance, and shall have the right to provide in the resolution or ordinance necessary and appropriate rules and regulations for the imposition, collection, and enforcement of the tax.

(2) Except as provided in Subsection G of this Section, no commission created by R.S. 33:4574(B) shall levy or increase a tax in excess of the limits provided for in Subsection B of this Section, unless approved by a majority of the electors of the parish or parishes voting thereon in an election held for that purpose.

(3)(a) Unless provided otherwise in any local, special, or general law for a particular commission, the proceeds of the occupancy taxes so levied, less a reasonable sum to be paid as a collection fee as provided for in Paragraph (5) of this Subsection, shall be used by the commission for the operation of the commission and for the purpose of attracting conventions and tourists into the area and jurisdiction of the commission, including but not limited to the authority to spend money for advertising, promotion, and publication of information, or for any other purpose generally or specifically

authorized for occupancy taxes in the parish by this Chapter or by any local, special, or general law.

(b) In Ouachita Parish, the proceeds of the occupancy tax may also be used for the construction of museums, equestrian and livestock centers, and sports facilities, and additions to civic and convention centers.

(4) Unless the proceeds of the tax have been pledged as security for bonds, a commission may decrease the rate of the tax authorized in this Section.

(5) The governing authority of the commission may enter into a cooperative endeavor agreement contract with the governing authority or authorities of the parish or parishes within its territories, or with any public entity authorized to collect sales or use tax, for the collection of the tax which it levies under such terms and conditions it may deem appropriate, including a reasonable collection fee, and may adopt such rules and regulations pursuant thereto regarding the enforcement and collection of the occupancy tax authorized by this Chapter. The commission provided for in R.S. 33:4574(B)(38) shall have the right to contract with the state for such collection.

(6) The governing authority of the commission may also enter into a cooperative endeavor agreement contract with the governing authority or authorities of the parish or parishes within its territories or with other public entities for the performance of such duties and functions of the commission which the commission determines is necessary but is unable to perform itself.

Pursuant to section 4574.1.1, the Commission may levy and collect a tax upon the occupancy of hotel rooms, motel rooms, and overnight camping facilities within the jurisdiction of the Commission. The Commission may levy an occupancy tax of up to three percent. The Commission must impose the tax by resolution or ordinance, and has the right to provide in the resolution or ordinance, necessary and appropriate rules and regulations for the imposition, collection, and enforcement of the tax.

As our office stated in Attorney General Opinion No. 02-0402, tourist commissions have the authority to impose hotel occupancy taxes, up to the maximum percentage provided for under R.S. 33:4574.1.1(A) (3% for the Washington Parish Tourism Commission), without an election. Because tourist commissions are not local governmental subdivisions, they are not subject to the election requirements of Article VI, Section 29. However, the Commission may not impose an occupancy tax in excess of three percent unless approved by a majority of the electors of the parish or parishes voting thereon in an election held for that purpose.

Trusting this adequately responds to your request, we remain

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
KENNETH L. ROCHE, III
Assistant Attorney General

CCF, JR/KLR, III/jv

Opinion Number 06-0106

160 TAXATION – Sales Tax

La. Const. Art. VI, Sec. 29

La. R.S. 43:4574; 43:4574.1.1

The Washington Parish Tourism Commission may impose a hotel occupancy tax, not to exceed three percent, by ordinance or resolution.

Ms. Katherine Mayor
Washington Parish Tourism Commission
900 Mill Street
Franklinton, Louisiana 70438

Date Received:

Date Released: May 25, 2006

Kenneth L. Roche, III
Assistant Attorney General