

**Coalition of MainStreet Communities**  
**AMENDMENT to Lodgers Tax FY 2010**  
**2009 Legislative Session**

Authorizing Municipalities to Increase the Lodger's Tax and Authorizing Municipalities to Invest in State Authorized and Municipally Designated Arts and Cultural Districts in the State of New Mexico

**Purpose**

- Provide the ability to municipalities to increase the lodgers tax for arts and cultural districts
- Invest within an arts and cultural district to increase economic activity including gross receipts of cultural institutions, arts, artisan and craft businesses, cultural enterprises, and cultural industries
- Enhance and expand local economic opportunity based on a market niche of place-based economic development based on the arts and culture
- Increase bed nights for the hospitality industry and increase sales in related businesses such as restaurants, cafes, and a variety of small business stores
- Provide a local, potential sustainable source of funding to match grants and other funds to administer and implement activities and projects of the arts and cultural district council to strengthen the cultural economy and its anchors
- Establish the district as a cultural and heritage tourism destination
- Attract "new" dollars to the arts and cultural district and the local economy based on attracting cultural and heritage tourists

To authorize municipalities to raise their local lodger's tax and invest the proceeds from the increase in public cultural facilities the existing statute would need to be amended. At present, NMSA § 3-38-15 allows a municipality to impose a lodger's tax of no more than five percent of the gross taxable rent. Therefore, if a municipality wants to increase the lodger's tax for investment, into a state authorized or municipally designated arts and cultural district for the purposes of growing the local economy, and it already imposes the current allowable maximum tax of five percent, this Section would have to be amended to allow for a greater tax. The proposal enables municipalities to vote for up to an additional 2% dedicated to the authorized or designated arts and cultural district.

CHAPTER 3. MUNICIPALITIES  
ARTICLE 38. LICENSES AND TAXES

§ 3-38-15. Authorization of tax; limitations on use of proceeds

A. A municipality may impose by ordinance an occupancy tax for revenues on lodging within the municipality, and the board of county commissioners of a county may impose by ordinance an occupancy tax for revenues on lodging within that part of the county outside of the incorporated limits of a municipality.

B. The occupancy tax shall not exceed seven percent of the gross taxable rent.

i. Any amount of tax imposed that exceeds five percent of the gross taxable rent shall be used by municipalities solely for the purposes of promoting arts and culture activities and projects within new mexico's arts and cultural districts as these terms are defined in [State Arts and Culture Commission Act] and [Local Economic Development Act].

C. Every vendor who is furnishing any lodgings within a municipality or county is exercising a taxable privilege.

D. The following portions of the proceeds from the occupancy tax shall be used only for advertising, publicizing and promoting tourist-related attractions, facilities and events:

(1) if the municipality or county imposes an occupancy tax of no more than two percent, not less than one-fourth of the proceeds shall be used for those purposes;

(2) if the occupancy tax imposed is more than two percent and the municipality is not located in a class A county or the county is not a class A county, not less than one-half of the proceeds from the first three percent of the tax and not less than one-fourth of the proceeds from the tax in excess of three percent shall be used for those purposes; and

(3) if the occupancy tax imposed is more than two percent and the municipality is located in a class A county or the county is a class A county, not less than one-half of the proceeds from the tax shall be used for those purposes.

E. The proceeds from the occupancy tax in excess of the amount required to be used for advertising, publicizing and promoting tourist-related attractions, facilities and events may be used for any purpose authorized in

Section 3-38-21 NMSA 1978.

F. The proceeds from the occupancy tax that are required to be used to advertise, publicize and promote tourist-related attractions, facilities and events shall be used within two years of the close of the fiscal year in which they were collected and shall not be accumulated beyond that date or used for any other purpose.

G. Notwithstanding the provisions of Paragraph (2) of Subsection D of this section, any use by a municipality or county of occupancy tax proceeds on January 1, 1996 may continue to be so used after July 1, 1996 in accordance with the provisions of this section and Section 3-38-21 NMSA 1978 as they were in effect prior to July 1, 1996; provided, any change in the use of those tax proceeds after July 1, 1996 is subject to the limitations of that paragraph.

H. Notwithstanding the provisions of Paragraph (2) of Subsection D of this section, the payment of principal and interest on outstanding bonds issued prior to January 1, 1996 pursuant to Section 3-38-23 or 3-38-24 NMSA 1978 shall be made in accordance with the retirement schedules of the bonds established at the time of issuance. The amount of expenditures required under Paragraph (2) of Subsection D of this section shall be reduced each year, if necessary, to make the required payments of principal and interest of all outstanding bonds issued prior to January 1, 1996.

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