

THE THIRTY-FOURTH LEGISLATURE OF AMERICAN SAMOA

First Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the twelve day of January
two thousand and fifteen

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A HOTEL OCCUPANCY
TAX; CREATING CHAPTER 7 UNDER TITLE 11 A.S.C.A.

Preamble:

WHEREAS, the American Samoa Government would benefit from the institution of a
tax on hotel rooms within the Territory; and

WHEREAS, revenues from this tax will be used to support and improve the operations
of the Pago Pago International Airport; and

WHEREAS, securing proper and adequate funding for the airport is in the public interest
of the people of American Samoa.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. There is created a Chapter 7 under Title 11 A.S.C.A. which reads:

**“CHAPTER 07
HOTEL OCCUPANCY TAX**

Sections:

- 11.0701 Definitions.**
- 11.0702 Tax imposition—Incidence—Payment—Collection.**
- 11.0703 Books and records—Inspections—Contents.**
- 11.0704 Reporting—Transmittal—Delinquency—Penalty.**
- 11.0705 Proceeds.**
- 11.0706 Exemptions.**

11.0701 Definitions.

The following words, terms and phrases, when used in this article, shall have
the meanings ascribed to them in this section, except where the context clearly
indicates a different meaning:

(a) *Hotel accommodations; motel accommodations* means any building or
buildings in which the public may, for a consideration, obtain living quarters,

sleeping or housekeeping accommodations. The term includes, but is not limited to, inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses. The term does not include a room in a dormitory operated by a religious organization, school, college or university for use by its students, faculty, or staff. Such building or buildings may sometimes be referred to herein as a "facility" or "hotel". A hotel or motel accommodation is sometimes referred to herein as a "hotel room" or "room".

(b) *Owner* means any person having an ownership interest in or conducting the operation of a hotel or receiving the consideration for the rental of such hotel room.

(c) *Permanent resident* means a tenant who, by written lease, has been granted a real interest in a specific hotel or motel accommodation by a landlord for a term of not less than one (1) month.

(d) *Resident employee* means any person who works and lives in the same hotel.

(e) *Tax collector* means an owner maintaining a place of business in the city.

11.0702 Tax Imposition—Incidence—Payment—Collection.

(a) *Tax imposed.* A tax is hereby levied and imposed upon the use and privilege of renting, leasing or letting a hotel room within American Samoa at the rate of five (5) percent of the room rental rate (not including taxes or other non-room rental charges added to the hotel bill) for each such hotel room rented for every twenty-four-hour period or any fraction thereof.

(b) *Incidence of tax.* The ultimate incidence of and liability for payment of the tax is to be borne by the person who seeks the privilege of occupying the hotel room, such person hereinafter referred to as occupant.

(c) *Payment of tax.* The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner of every hotel to secure the tax from the occupant of the hotel room and to pay the tax over to the treasurer under the procedures prescribed by the treasurer, or as otherwise provided in this article.

(d) *Collection.* Every person required to collect the tax levied by this chapter shall secure the tax from the occupant at the time he collects the rental payment for the hotel room. The amount due under the tax provided in this article shall be stated separately upon the invoice, receipt or other statement or memorandum given to the occupant at the time of payment.

11.0703 Books and records—Inspections—Contents.

(a) The Treasurer, or any person certified by him as his deputy or representative, may enter the common and business premises of any hotel for inspection of books and records in order to effectuate the proper administration of this article and to assure the enforcement of the collection of the tax imposed.

(b) No person shall prevent, hinder or interfere with the Treasurer or his duly authorized deputy or representative in the discharge of his duties under this chapter.

(c) It shall be the duty of every owner to keep accurate and complete books and records to which the Treasurer or his duly authorized deputy or representative shall at all times have full access, which records shall include a daily sheet showing:

(1) The number of hotel rooms rented during the twenty-four-hour period, including multiple rental of the same hotel room where such shall occur.

(2) The actual hotel receipts collected for the date in question.

11.0704 Reporting—Transmittal—Delinquency—Penalty.

(a) Quarterly reporting. The owner or owners of each hotel room within American Samoa shall file quarterly returns with the Treasury showing tax receipts received with respect to each hotel room during each month of the quarter. The returns shall be due no later than 30 days after the end of each calendar quarter as follows: April 30 for the quarter ending March 31; July 30 for the quarter ending June 30; October 30 for the quarter ending September 30, and January 30 for the quarter ending December 31.

(b) Transmittal of tax. The tax shall be due on the day the quarterly return is due as provided herein. At the time of filing such return, the owner shall pay to the Treasurer all taxes, interest and penalties, if any, due for the period to which the report applies.

(c) Failure to pay tax. In addition to any other penalties for violation of the provisions of this chapter, any person making late payment, or failing to make a payment when due, shall pay, in addition to the amount due, a penalty of 20 percent and interest at the rate set by the Treasurer's rules compounded daily, from the last day of the month following the period for which the amount of any portion thereof should have been returned until the date of payment.

11.0705 Proceeds.

(a) Except as provided in subsection (b), all proceeds resulting from the imposition of the tax under this chapter, including interest and penalties, shall be paid into the General Fund.

(b) Effective January 1, 2016, the Treasurer shall pay over seventy-five (75) percent of the proceeds of the tax imposed hereunder to the Port Authority for use in improving the services of the Pago Pago International Airport.

11.0706 Exemptions.

(a) The tax imposed by this article shall not apply to hotel resident employees.

(b) The tax imposed by this article shall not apply to the occupancy of a specific room by a permanent resident only if the following conditions are met:

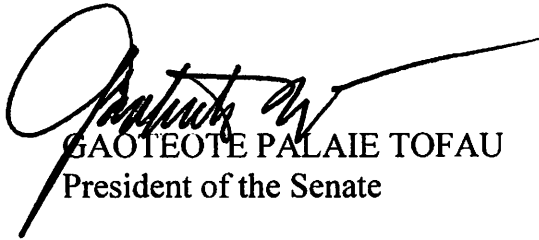
(1) The permanent resident actually occupied, or had the right to occupy, the room during the entire reporting period; and

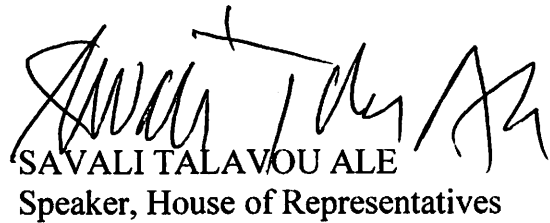
(2) The specific room occupied by the permanent resident was not occupied on a non-leasehold basis at any time during the reporting period for which the exemption is claimed; and

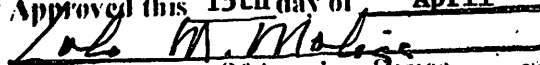
(3) The permanent resident did not assign, sublease or otherwise transfer a real interest in the room during the reporting period for which the exemption is claimed.”

Sec 2. Effective date.

In accordance with Article II Section 19 of the Revised Constitution of American Samoa, this bill shall become effective 60 days after the end of the session at which it has been passed.


GAOTEOTE PALAIE TOFAU
President of the Senate


SAVALI TALAVOU ALE
Speaker, House of Representatives

Hereby Approved this 15th day of April 2015

Governor Of American Samoa

NOFOAIGA TOLUSEFULU-FA FONOFAITULAFONO AMERIKA SAMOA

Fono Tele Muamua

Nofioia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefululua o Ianuari
Lua afe sefulu lima

O SE TULAFONO E FA AVAE AI SE LAFOGA O LE NOFOIA O POTU O FALETALIMALO; FA AVAE AI SE MATAUPU 7 I LALO O LE ULUTALA 11 T.T.A.S.

Faatomuaga:

- TALUAI, e manuia le Malo o Amerika Samoa pe a faia se lafoga o potu o faletalimalo i totonu o le Teritori; ma
- TALUAI, o tupemaua mai lenei lafoga o le a fa'aaogaina e lagolago ai ma faaleleia galuega a le Malaevaalele Faalevāomalo o Pago Pago; ma
- TALUAI, o le sailia o ni tupe ia lava mo le malaevaalele o le a manuia ai le lautele o tagata o Amerika Samoa.

IA FAATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:

Maga 1. Ua faavae nei se Mataupu 7 i lalo o le Ulutala 11 T.T.A.S. e faitauina:

“MATAUPU 07

L AFOGA O LE NOFOIA O POTU O FALETALIMALO

Maga:

- 11.0701 Uiga.**
11.0702 Faace o le lafoga—o ai e totogia—totogiina—Aoina.
11.0703 Tusi ma faamaumauga—Asiasiga—Mea o i ai.
11.0704 Lipoti—Feavea'ia—Tuai—Faasalaga.
11.0705 Tupe e maua mai.
11.0706 Tuusaunoaga.

11.0701 Uiga.

O upu nei, o faaupuga ma fuitau, pe afai e fa'aaoga i lenei vaega, o latou uiga nei o le a fa'aaoga ai i lenei maga, vagana ai e iloga lava se isi ona uiga e ta'ua mai e faatatau i isi faaupuga o loo aumai faatasi ai:

(a) *Nofoia o Faletalimalo; nofoia o faletalimalo laiti* o lona uiga soo se fale lava poo ni fale e mafai e le lautele ona faia ma mea e nofo ai, moe ai pe teu ai foi ni mea teufale. O lenei faaupuga e aofia ai, ae le pau ai lena, tamai fale e maua ai ni potu mautotogi (inns, motels), o fale ma nofoaga e nonofo ai pe fa'aaoga e turisi, fale mautotogi, fale e i ai potu mautotogi ma isi fale faapena. O lenei faaupuga e le aofia ai ni falenofo e faagaoioia e ni lotu, o a'oga, kolisi poo iunivesite mo le fa'aaogaina e tamaiti a'oga, faia'oga poo aufaigaluega. O fale ia e mafai ona ta'ua o "fale" poo "faletalimalo". O nisi foi taimi e ta'ua ai se faletalimalo poo se tamai faletalimalo foi o se potu o le faletalimalo poo se potu.

(e) *O lē ana ia* o lona uiga o se tagata e ana ia poo loo ia faagaoioia foi se faletalimalo poo loo ia taliaina tupe mo le fa'aaogaina o se potu.

(i) *Tagata nofomau* o lona uiga o se tagata o loo ua ia umia se lisi tusitusia mai le pule o se fale mo lona fa'aaogaina mo se vaitaimi e le ititi ifo i le tasi le masina.

(o) *Tagata faigaluega e nofo ai* o lona uiga o se tagata e galue ma nofo ai lava i le faletalimalo lea.

(u) *Ao Lafoga* o lona uiga o le tagata e ana ia ma tausia le nofoaga o se pisinisi i le aai.

11.0702 Fa'ae'e o le Lafoga—O ai e totogia—Totogiiina—Aoina.

(a) *Lafoga faaeina.* Ua faaee nei se lafoga mo le fa'aogaina ma le aia e fa'aaoga ai, lisi poo le tuuina atu foi o se potu mautotogi i se faletalimalo i Amerika Samoa i le fua e 5% o le tau o le potu (e le aofia ai lafoga e faaopopo i le pili a le faletalimalo) mo potu taitasi uma e mautotogi ai mo se vaitaimi 24 itula poo se vaega foi o le aso.

(e) O ai e totogia le lafoga. O le tagata lava lea na ia fia maua le potu mautotogi, o ia lava lea e totogia le lafoga, o ia foi lea o le a ta'ua pea i lenei maga, e nofoia le potu.

(i) *Totogiiina* o le lafoga. O le lafoga lea ua faaee o le a faaopopo i nisi lava lafoga ma totogi. O le matafaioi lava a le tagata e ana ia le faletalimalo le tau lelei ma tuuina atu le lafoga lea o le nofoia o le faletalimalo i le teutupe i lalo o faagasologa e pei ona tuuina mai e le teutupe, poo le faia foi i se auala o loo aiaia mai lenei vaega.

(o) *Aoina.* O tagata uma e manaomia lo latou aoina o le lafoga lenei e pei ona faaee ai i lenei mataupu ia mautinoa le aoina mai o le lafoga mai tagata na nofoia potu o faletalimalo i le taimi e totogi ai le potu. O le aofai o le lafoga lenei e tataua lava ona ta'ua patino i lalo o le pili, le lisiti poo se isi faamatalaga e tuuina atu i le tagata i le taimi e totogi ai.

11.0703 Tusi ma faamaumauga—Asiasiga—Mea o i ai.

(a) E mafai e le Teutupe, poo se isi lava tagata e tofia e ia e fai ma ona sui, ona ulufale atu i totonu o le nofoaga faitele poo le pisinisi foi o soo se faletalimalo e

tagai i tusi ma faamaumauga ina ia mautinoa ai le pulea lelei o lenei vaega ma mautinoa ai foi le faamalosia o le aoina o le lafoga ua faaeeina nei.

(e) E leai se tagata na te taofia, faatuai pe falavelave foi i le teutupe poo sona sui faatagaina mai le faataunuaina o ona tiute i lalo o lenei mataupu.

(i) O le tiute o tagata taitoatasi uma e ana ia faletalimalo le faamaumauina ma le tausia lelei o tusi ma faamaumauga e mafai ona tagai i ai o le Teutupe poo lona sui e i ai faamaumauga o aso taitasi e fa'aalia ai mea nei:

(1) O le aofai o potu na nofoia i totonu o le 24 itula, e aofia ai nisi mea uma na totogi i le potu lava lea.

(2) Lisiti moni o tupe na aoina mo lea aso.

11.0704 Lipoti—Feavea'ia—Tuai—Sala

(a) Lipoti faalekuata. O ē ona potu taitasi o faletalimalo i totonu o Amerika Samoa e faaoo atu i le Teutupe a latou lipoti faalekuata e faailoa atu ai tupe na maua o lafoga e faatatau i potu taitasi uma o le faletalimalo i masina taitasi uma o le kuata. O tupe uma e tatau ona maua e le silia le 30 aso talu ona mae'a kuata faakalena taitasi e pei ona o le a ta'ua nei: Aperila 30 mo le kuata na uma ia Mati 31; Iulai 30 mo le kuata na uma ia Iuni 30; Oketopa 30 mo le kuata na uma ia Setema 30, ma Ianuari 30 mo le kuata na uma ia Tesema 31.

(e) Fe'avea'ia/Faaoina atu o le lafoga. O le lafoga e tatau ona oo atu i le aso e faaoo atu ai le tupe faalekuata e pei ona aiaia nei. I le taimi e faila ai tupe ia, e totogi atu ai e lē ana le fale i le Teutupe, lafoga uma, o pasene faaopoopo ma sala, pe afai e i ai, mo le vaitaimi o loo aafia i le lipoti.

(i) O le lē totogiina o le lafoga. E faaopoopo atu i nisi lava sala mo le solia o aiaiga o lenei mataupu, soo se tagata e tuai ona faaoo atu le lafoga, pe lei faia foi le totogi i le taimi e faatulaga ai, ia totogi, e faaopoopo i le aofai, se sala e 20% ma le pasene faaopoopo i se fua e faatulaga e le Teutupe e faaopoopo pea i aso taitasi mai le aso mulimuli o le masina e sosoo ma le vaitaimi lea sa tatau ai ona totogi le lafoga o soo se vaega o le tupe na tatau ona totogi seia oo lava I le aso e tatau ona totogi ai.

11.0705 Tupe maua mai.

(a) Sei vagana ai ua aiaia i le soamaga (e), o tupe uma e maua mai le lafoga i lalo o lenei mataupu, e aofia ai le pasene faaopoopo ma sala, o le a tuuina atu i le Teugatupe Tele.

(e) Amata atu ia Ianuari 1, 2016, o le a totogiina atu e le Teutupe le silia i le 75% o tupe nei i le Pulega o le Taulaga mo le faaleleia o auaunaga i le Malaevaalele Faavāomalo o Pago Pago.

11.0706 Tuusaunoaga.

(a) O le lafoga lea ua faaee i lenei vaega e le taulia ai tagata galulue a le faletalimalo e nonofo ai lava i le faletalimalo.

(e) O le lafoga o loo faaee i le vaega lenei e le taulia ai le faaaogaina o se potu e tagata nofotumau pe afai e i ai mea nei:

(1) O le tagata sa nofoia se potu sa nofo ai lava i le taimi atoa lea e faasino i ai le lipoti; ma


(2) O le potu lea na nofoia e le tagata nofo mau e lei nofoia i se faiga o se lisi i soo se taimi o loo aafia i le lipoti lea o loo i ai le tuusaunoaga; ma

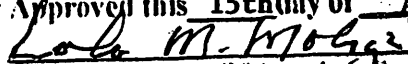
(3) E lei tuuina atu e le tagata nofomau lea, poo le toe lisi atu i se tasi le potu i le taimi o loo aafia i le lipoti lea o loo i ai le tuusaunoaga.

Maga 2. Aso taualoa.

Ina ia tusa ai ma le Mataupu II Maga 19 o le Faavae Toe Teuteu o Amerika Samoa, o lenei pili e taualoa i le 60 aso talu ona mae'a le tauaofiaga na pasia ai.


GAOTEOTE PALAIE TOFAU
Peresetene, Maota Mauuluga


SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui

Hereby Approved this 15th day of April 20 15

Governor Of American Samoa