

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 856

Short Title: Surry Occupancy Tax.

(Local)

Sponsors: Representatives Diamont; Judy Hunt and G. Wilson.

Referred to: Government.

March 27, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE SURRY COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. **Occupancy Tax.** (a) Authorization and Scope. The Surry County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by educational organizations, religious organizations, or summer camps.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly

1 installments on or before the 15th day of the month following the month in which the
2 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or
3 before the 15th day of each month, prepare and render a return on a form prescribed by
4 the county. The return shall state the total gross receipts derived in the preceding month
5 from rentals upon which the tax is levied.

6 A return filed with the county finance officer under this act is not a public
7 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

8 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
9 file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each
10 day's omission. In case of failure or refusal to file the return or pay the tax for a period
11 of 30 days after the time required for filing the return or for paying the tax, there shall
12 be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional
13 month or fraction thereof until the tax is paid.

14 Any person who willfully attempts in any manner to evade a tax imposed
15 under this act or who willfully fails to pay the tax or make and file a return shall, in
16 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
17 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
18 exceed six months, or both. The board of commissioners may, for good cause shown,
19 compromise or forgive the penalties imposed by this subsection.

20 (e) Distribution and Use of Tax Revenue. Surry County shall, on a quarterly
21 basis, remit the net proceeds of the occupancy tax to the Surry Tourism Development
22 Authority. The Authority may spend funds remitted to it under this subsection only to
23 further the development of travel, tourism, and conventions in the county through State,
24 national, and international advertising and promotion. As used in this subsection, "net
25 proceeds" means gross proceeds less the cost to the county of administering and
26 collecting the tax, as determined by the finance officer.

27 (f) Effective Date of Levy. A tax levied under this act shall become effective
28 on the date specified in the resolution levying the tax. That date must be the first day of
29 a calendar month, however, may not be earlier than January 1, 1990, and may not be
30 earlier than the first day of the second month after the date the resolution is adopted.

31 (g) Repeal. A tax levied under this act may be repealed by a resolution
32 adopted by the Surry County Board of Commissioners. Repeal of a tax levied under
33 this act shall become effective on the first day of a month and may not become effective
34 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
35 tax levied under this act does not affect a liability for a tax that attached before the
36 effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
37 before the effective date of the repeal.

38 **Sec. 2. Tourism Development Authority.** (a) Appointment, Membership,
39 and Terms. When the board of commissioners adopts a resolution levying a room
40 occupancy tax under this act, it shall also adopt a resolution creating a county Tourism
41 Development Authority, which shall be a public authority under the Local Government
42 Budget and Fiscal Control Act and shall be composed of the following nine members:

- 1 (1) An officer of the Mount Airy Chamber of Commerce, selected by the
2 chamber of commerce, who shall serve as an ex officio, nonvoting
3 member.
- 4 (2) A county commissioner appointed by the Surry County Board of
5 Commissioners, who shall serve as an ex officio, nonvoting member.
- 6 (3) Three appointments to be made by the Mount Airy Chamber of
7 Commerce with at least one coming from the Tourism Committee of
8 the Mount Airy Chamber of Commerce. Of these appointments, one
9 shall be for a one-year term, one shall be for a two-year term, and one
10 shall be for a three-year term.
- 11 (4) Four appointments to be made by the following entities, each to serve
12 a three-year term: one appointment by the Surry County Board of
13 Commissioners (provided that the appointee is not a county
14 commissioner or a member of a chamber of commerce and is not
15 involved in a tourist-related business or program); one appointment by
16 the Greater-Elkin-Jonesville Chamber of Commerce; one appointment
17 by the Dobson City Board of Commissioners; and one appointment by
18 the Pilot Mountain Board of Commissioners.

19 All members of the Authority must have Surry County business or residence
20 situs and shall serve without compensation. Vacancies in the Authority shall be filled
21 by the appointing entity of the member creating the vacancy. Members appointed to fill
22 vacancies shall serve for the remainder of the unexpired terms which they are appointed
23 to fill. Members may serve no more than two consecutive terms. The members shall
24 elect a chairman from the membership of the Authority, who shall serve for a term of
25 two years. The Authority shall meet at the call of the chairman and shall adopt rules of
26 procedure to govern its meetings.

27 (b) Duties. The Authority shall promote travel, tourism, and conventions in
28 Surry County. In performing its duties, the Authority may contract with any person,
29 firm, or agency to advise and assist it and may recommend to the board of county
30 commissioners that county staff be employed for this advice and assistance. Any
31 county staff employed upon a recommendation made by the Authority shall be hired
32 and supervised by the Authority, which shall pay the salaries and expenses of this staff.

33 (c) Reports. The Authority shall report quarterly and at the close of the fiscal
34 year to the board of county commissioners on its receipts and expenditures for the
35 preceding quarter and for the year in such detail as the board may require.

36 **Sec. 3. Review of Levy.** One year after the effective date of a tax levied
37 under this act and annually thereafter, the Surry County Board of Commissioners shall
38 conduct a thorough review of the tax authorized by this act and the function of the
39 Tourism Development Authority established under this act to determine the
40 effectiveness of the levy and of the Authority.

41 **Sec. 4.** This act is effective upon ratification.