

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 555
HOUSE BILL 726

AN ACT TO MODIFY THE CONDITIONS ON USE OF PROCEEDS OF A
GOLDSBORO OCCUPANCY TAX AND TO RAISE THE FORCE ACCOUNT
CONSTRUCTION LIMIT FOR CERTAIN STORM DRAINAGE PROJECTS IN
GOLDSBORO.

The General Assembly of North Carolina enacts:

Section 1. Chapter 929 of the 1985 Session Laws, as amended by Chapters 172 and 319 of the 1987 Session Laws, is further amended by repealing all references to the City of Goldsboro.

Sec. 2. Levy of Tax. The City of Goldsboro may by resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax. Collection of the tax, and liability, therefore, shall begin and continue only on and after the first day of a calendar month set in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 3. Rate; Scope. The room occupancy and tourism development tax that may be levied under this act shall not be less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the levying unit now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

Sec. 4. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) Religious organizations;
- (2) A business that offers to rent fewer than five units;
- (3) Educational organizations;
- (4) Summer camps; and
- (5) Charitable, benevolent, and other nonprofit organizations.

Sec. 5. Administration of Tax. (a) A tax levied under this act is due and payable to the city in monthly installments on or before the twenty-fifth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the twenty-fifth day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is

levied. A return filed under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's omission as provided under G.S. 160A-175.

(c) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

Sec. 6. Collection of Tax. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the tax, collect the tax. The tax shall be collected as part of the charge for the furnishing of any taxable accommodations. 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 governing bodies. The room occupancy tax levied pursuant to this act 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 city shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 7. Disposition of Taxes Collected. (a) Feasibility Study. After levying a tax under this act, the City of Goldsboro shall place the net proceeds of the tax in a special fund. "Net proceeds" means gross proceeds less the cost to the city of collecting and administering the tax. When sufficient proceeds have been accumulated in the special fund, the city council shall create a citizens' advisory committee to conduct a study of the feasibility of the construction of a civic center in Goldsboro. The citizens' advisory committee shall be composed of either five or seven members, as determined by the city council. If the committee is composed of five members, three shall be appointed by the city council and two shall be appointed by the Chamber of Commerce of Wayne County. If the committee is composed of seven members, four shall be appointed by the city council and three shall be appointed by the Chamber of Commerce of Wayne County. The citizens' advisory committee shall use the net proceeds of the tax levied under this act for a study of the feasibility of the construction of a civic center in Goldsboro.

(b) If Civic Center Feasible. If the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would be a viable alternative for the city, the proceeds of the tax levied under this act shall thereafter be used as provided in this subsection. The citizens' advisory committee created pursuant to subsection (a) of this section shall continue to serve in an advisory capacity to the Goldsboro City Council. The city shall use no more than twenty percent (20%) of the net proceeds of the tax levied under this act for development of tourism, support services, and tourist-related events and attractions. The city shall use the remainder of the net proceeds for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a civic center facility for Goldsboro.

The city may contract with any person, firm, or agency to assist it in carrying out the purposes provided in this subsection.

(c) If Civic Center Not Feasible at Present. If the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would not be a viable alternative for the city at present or without the participation of other governmental, educational, or nonprofit entities, then the city may, on a monthly basis, remit up to fifty percent (50%) of the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8 of this act. The remaining net proceeds of the tax shall be invested in a special interest bearing fund and held by the city for improving, leasing, constructing, financing, operating, or acquiring facilities and properties, either by the city or in conjunction with other governmental, educational, or nonprofit entities. Thereafter, if the Goldsboro City Council determines that a civic center would be a viable alternative for the city, then a citizens' advisory committee shall be again created, if it has been disbanded, pursuant to subsection (a) of this section, and the provisions of subsection (b) of this section shall apply. Further, the citizens' advisory committee may conduct additional feasibility studies as it deems necessary. If the Goldsboro City Council later determines that a civic center would not be a viable alternative for the city, then the provisions of subsection (d) of this section shall apply.

(d) If Civic Center Not Feasible. If the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would not be a viable alternative for the city, the proceeds of the tax levied under this act shall thereafter be used as provided in this subsection. The citizens' advisory committee created pursuant to subsection (a) of this section shall be disbanded. The city shall, on a monthly basis, remit the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8 of this act. The Council shall use the proceeds to develop tourism, support services, and tourist-related events, and for any other appropriate activities to provide tourism-related facilities and attractions.

Sec. 8. Goldsboro Tourism Council. (a) the Goldsboro City Council determines that the results of the feasibility study indicate that a civic center would not be a viable alternative for the city, as provided in Section 7, it shall adopt a resolution creating a Goldsboro Tourism Council. The membership of the Goldsboro Tourism Council shall be appointed by the Goldsboro City Council as follows:

- (1) Three owners or operators of hotels, motels, or other taxable accommodations in the City of Goldsboro.
- (2) Three individuals who have demonstrated an interest in conventions and tourism development in the Goldsboro area, and who do not own or operate hotels, motels, or other taxable tourism accommodations.
- (3) Three ex officio members: the city manager, the executive vice-president of the Chamber of Commerce of Wayne County, and the mayor of the City of Goldsboro.

(b) All members of the Council shall serve without compensation. Travel expenses, as approved in the annual budget, may be provided by the Goldsboro Tourism Council. Vacancies in the Council shall be filled in the same manner as the original appointments. Members appointed to fill vacancies shall serve for the remainder of the

unexpired term for which they are appointed to fill. Members shall serve three-year terms which will be staggered as provided by the city council; members may serve no more than two consecutive three-year terms. The members shall elect a chairperson and treasurer, who shall serve for a term of two years. The Council shall meet at the call of the chairperson and shall adopt rules of procedure to govern its meeting as provided by Robert's Rules of Order.

(c) The Goldsboro Tourism Council may contract with any person, firm, or agency to assist it in carrying out the purposes provided in this act. The Council shall prepare an annual budget and shall report quarterly and at the close of the fiscal year to the Goldsboro City Council on its receipts and expenditures for the preceding quarter and year in such detail as the city may require. An audit will be conducted as part of the city's audit contract.

Sec. 9. Repeal. A tax levied under this section may be repealed by a resolution adopted by the Goldsboro City Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 10. Force Account Modification.

(a) G.S. 143-135 reads as rewritten:

"§ 143-135. Limitation of application of Article.

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed seventy-five thousand dollars (\$75,000). In addition, except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials, or equipment, this Article shall not apply to work undertaken by the City of Goldsboro to enclose or encase an open storm drainage ditch when (i) the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned, (ii) the total cost of the materials for the project does not exceed one hundred thousand dollars (\$100,000) per drainage ditch, and (iii) the total remaining cost of the project, including without limitation all direct and indirect costs of labor and services, does not exceed seventy-five thousand dollars (\$75,000). Such force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public.

Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article."

(b) This section applies only to the City of Goldsboro.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives