

GENERAL ASSEMBLY OF NORTH CAROLINA  
1995 SESSION

CHAPTER 540  
HOUSE BILL 706

AN ACT AUTHORIZING COLUMBUS COUNTY TO LEVY A ROOM OCCUPANCY TAX SUBJECT TO APPROVAL BY THE VOTERS, MODIFYING THE METHOD OF APPOINTMENT OF MEMBERS AND OFFICERS TO CERTAIN LOCAL TOURISM DEVELOPMENT BOARDS, AND MODIFYING THE ALLOCATION OF THE PROCEEDS OF THE NEW HANOVER OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

PART I.  
AUTHORIZATION FOR COLUMBUS COUNTY  
ROOM OCCUPANCY TAX

Section 1. Occupancy Tax. (a) **Authorization and scope.** The Columbus County Board of Commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether a three percent (3%) room occupancy tax shall be levied in the county. The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287. The form of the question to be presented in a special election concerning the levy of the room occupancy tax shall be:

"[ ] FOR [ ] AGAINST

Levy of a three percent (3%) county room occupancy tax."

If the majority of those voting in a referendum held pursuant to this section vote for the levy of the tax, the Columbus 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 up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to 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. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) **Collection.** Every operator of a business subject to the tax levied under this section 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. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.

(c) **Administration.** The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th 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 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this section is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(d) **Penalties.** A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Columbus County Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) **Distribution and use of tax revenue.** Columbus County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Columbus County Tourism Board. The Board shall use the funds remitted to it under this subsection to promote travel and tourism in Columbus County and for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed seven percent (7%) of the gross proceeds.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the county. The term includes expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum and other expenditures that, in the judgment of the Authority, will facilitate and promote tourism.

(f) **Effective date of levy.** A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) **Repeal.** A tax levied under this section may be repealed by a resolution adopted by the Columbus County Board of Commissioners. 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. 2. Tourism Board. (a) **Appointment.** When the board of commissioners adopts a resolution levying a room occupancy tax under this act, if it has not already created a county Tourism Board under Chapter 706 of the 1993 Session Laws, it shall adopt a resolution creating that Board, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Board including the members' qualifications and terms of office, and for the filling of vacancies on the Board. The board of commissioners may designate one member of the Board as chair and shall determine the compensation, if any, to be paid to members of the Board.

The Board shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Columbus County shall be the ex officio finance officer of the Board.

(b) **Duties.** The Board shall expend the net proceeds of the tax levied under this act for the purposes provided in this Part. The Board shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

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

Sec. 3. This Part is repealed effective July 28, 1995, if the 1995 General Assembly, 1995 Regular Session, enacts Senate Bill 364 authorizing Columbus County to levy a room occupancy tax.

## PART II.

### HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY

Sec. 4. Section 15 of Chapter 908 of the 1983 Session Laws reads as rewritten:

"Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County Tourism Development Authority composed of nine voting members appointed as follows:

- (1) ~~three tourist-oriented business members appointed by the Board of Directors of the Maggie Valley Chamber of Commerce; Three members who own or operate hotels, motels, or other accommodations with more than 20 rental units.~~
- (2) ~~three tourist-oriented business members appointed by the Board of Directors of the Haywood County Chamber of Commerce; and Three~~

members who own or operate hotels, motels, or other accommodations with 20 or fewer rental units.

- (3) ~~three~~ Three tourist-oriented business members at large ~~appointed by the Haywood County Board of Commissioners. Each Chamber's Board of Directors and the large.~~

All members of the Authority shall be appointed by the Haywood County Board of Commissioners. The Board of County Commissioners-Commissioners shall designate ~~one~~ three of its initial appointees to serve a one-year term, ~~one~~ three to serve a two-year term, and ~~one~~ three to serve a three-year term. Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the ~~appointing authority of the member who created the vacancy.~~ Board of Commissioners subject to the qualifications established above for the vacating member. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

(b) The members of the Tourism Development Authority shall elect from its membership a ~~chairman~~ chair. The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer of Haywood County shall serve ex officio as accountant for the Authority.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the ~~board of county commissioners~~ Board of Commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the Board may require."

### PART III.

#### NEW HANOVER OCCUPANCY TAX USE

Sec. 5. Section 35 of Chapter 908 of the 1983 Session Laws, as amended by Chapter 987 of the 1983 Session Laws and Chapter 971 of the 1985 Session Laws, reads as rewritten:

"Sec. 35. Disposition of Taxes Collected. (a) New Hanover County shall distribute the net proceeds of the occupancy tax as follows:

- (1) ~~Seventy five percent (75%)~~ Sixty percent (60%) of the net proceeds shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30; and
- (2) ~~Twenty five percent (25%)~~ Forty percent (40%) of the net proceeds shall be distributed on a quarterly basis to the county and its municipalities in accordance with the method by which the one percent (1%) local sales and use taxes levied in the county pursuant to Article 39 of Chapter 105 of the General Statutes are distributed.

'Net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax.

Unless a change in the use of occupancy tax revenue is authorized pursuant to subsection (b), the revenue deposited in a special fund in accordance with subdivision (1) shall be used by the county to control beach erosion, and the revenue distributed between the county and its municipalities in accordance with subdivision (2) shall be used to promote travel and tourism. No revenue distributed under subdivision (2),

however, may be used to plan, construct, operate, maintain, or in any way promote a civic center, convention center, public auditorium, or like facility.

(b) The purposes for which revenue from the room occupancy tax may be used by the county and its municipalities may be changed only by resolution of the New Hanover Board of County Commissioners after being approved by a majority of the votes cast in an election held in New Hanover County on the question of how revenue from the room occupancy tax should be used. The ballot presented to the qualified voters of the county in an election concerning the use of revenue from the room occupancy tax shall state all the proposed uses of this revenue and the percentage of the revenue to be used for each purpose. Any change in use of revenue from the room occupancy tax made by the county commissioners after voter approval may likewise be changed only by resolution of the county commissioners after being approved by the voters in another election.

The question of how revenue from the room occupancy tax should be spent may be submitted to the qualified voters of the county only ~~in~~ at the time of a statewide general election. All elections under this section shall be conducted in accordance with the laws then governing elections in this State."

#### PART IV.

#### GREENSBORO/HIGH POINT TOURISM DEVELOPMENT OFFICERS

Sec. 6. Section 7(b) of Chapter 988 of the 1983 Session Laws (Reg. Sess. 1984), as amended by Chapter 39 of the 1989 Session Laws, reads as rewritten:

"(b) All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. 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, except the initial members of the following designations, who shall serve the following terms:

- (1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) above shall serve a one-year term;
- (2) Of the members appointed pursuant to subdivision (a)(3) above, the appointee of the Greensboro City Council who owns or operates accommodations with more than 200 rental units shall serve a three-year term; the appointee of the Greensboro City Council who owns or operates accommodations with no meeting facilities shall serve an initial term which expires September 30, 1989; and one appointee of the board of commissioners shall serve a three-year term and one a two-year term, as designated by the board of county commissioners;
- (3) The member appointed pursuant to subdivision (a)(4) above shall serve a three-year term;
- (4) The member appointed pursuant to subdivision (a)(5) above shall serve a two-year term; and
- (5) The member appointed pursuant to subdivision (a)(6) shall serve an initial term which expires September 30, 1991.

Members may serve no more than two consecutive three-year terms. The members shall elect a ~~chairman~~, ~~chair~~, who shall serve for a term of two years. A member of the Authority who is a member of the Guilford County Board of Commissioners or the Greensboro City Council may not serve as the chair or as any other officer of the Authority or as the chair or as any other officer of a committee of the Authority. The Authority shall meet at the call of the ~~chairman~~ ~~chair~~ and shall adopt rules of procedure to govern its meetings. The finance officer for Guilford County shall be the ex officio finance officer of the Authority."

Sec. 7. Section 7.1 of Chapter 988 of the 1983 Session Laws (Reg. Sess. 1984), as amended by Chapter 39 of the 1989 Session Laws, is amended by designating the language in that section as subsection (a) and adding a new subsection to read:

"(b) A member of the High Point Convention and Visitors Board who is a member of the Guilford County Board of Commissioners or the High Point City Council may not serve as the chair or as any other officer of the Board or as the chair or as any other officer of a committee of the Board."

#### PART V.

#### EFFECTIVE DATE

Sec. 8. Section 5 of this act is effective upon ratification and applies to taxes levied on or after that date. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of July, 1995.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker  
Speaker of the House of Representatives