

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH70138-MBx-14 (2/8)

Short Title: Halifax Occupancy Tax. (Local)

Sponsors: Representative L. Allen.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE HALIFAX COUNTY OCCUPANCY AND TOURISM  
DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 377 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. ~~— The Halifax 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).~~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) Authorization of additional tax. — In addition to the tax authorized by subsection (a) of this section, the Halifax County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with the provisions of this section. Halifax County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(c) Administration. — A tax levied under this section must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(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~~

1 shall be collected as part of the charge for furnishing a taxable accommodation. The tax  
2 shall be stated and charged separately from the sales records, and shall be paid by the  
3 purchaser to the operator of the business as trustee for and on account of the county.  
4 The tax shall be added to the sales price and shall be passed on to the purchaser instead  
5 of being borne by the operator of the business. The county shall design, print, and  
6 furnish to all appropriate businesses and persons in the county the necessary forms for  
7 filing returns and instructions to ensure the full collection of the tax. An operator of a  
8 business who collects the occupancy tax levied under this act may deduct from the  
9 amount remitted to the county a discount of three percent (3%) of the amount collected.

10 (e) Administration. The county shall administer a tax levied under this act. A tax  
11 levied under this act is due and payable to the county finance officer in monthly  
12 installments on or before the 15th day of the month following the month in which the  
13 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
14 before the 15th day of each month, prepare and render a return on a form prescribed by  
15 the county. The return shall state the total gross receipts derived in the preceding month  
16 from rentals upon which the tax is levied.

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

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

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

31 (e)(d) Distribution and use of tax revenue. Halifax County shall must, on a  
32 quarterly basis, remit the net proceeds of the occupancy tax to the Halifax Tourism  
33 Development Authority. The Authority may spend funds remitted to it under this  
34 subsection only to promote travel and tourism in Halifax County, to sponsor  
35 tourist-oriented events and activities in Halifax County, and to finance tourist-related  
36 capital projects in Halifax County. As used in this subsection, "net proceeds" means  
37 gross proceeds less the cost to the county of administering and collecting the tax, as  
38 determined by the finance officer. must use at least two-thirds of the funds remitted to it  
39 under this subsection to promote travel and tourism in Halifax County and must use the  
40 remainder for tourism-related expenditures.

41 The following definitions apply to this subsection:

- 42 (1) Net proceeds. – Gross proceeds less the cost to the county of  
43 administering and collecting the tax, as determined by the finance  
44 officer, not to exceed three percent (3%) of the first five hundred

1            thousand dollars (\$500,000) of the gross proceeds collected each year  
2            and one percent (1%) of the remaining gross receipts collected each  
3            year.

4            (2) Promote travel and tourism. – To advertise or market an area or  
5            activity, publish and distribute pamphlets and other materials, conduct  
6            market research, or engage in similar promotional activities that attract  
7            tourists or business travelers to the area; the term includes  
8            administrative expenses incurred in engaging in the listed activities.

9            (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
10           the Tourism Development Authority, are designed to increase the use  
11           of lodging facilities, meeting facilities, or convention facilities in the  
12           county by attracting tourists or business travelers to the county. The  
13           term includes tourism-related capital expenditures.

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

18           (g) ~~Repeal. A tax levied under this act may be repealed by a resolution adopted~~  
19 ~~by the Halifax County Board of Commissioners. Repeal of a tax levied under this act~~  
20 ~~does not affect a liability for a tax that was attached before the effective date of the~~  
21 ~~repeal, nor does it affect a right to a refund of a tax that accrued before the effective date~~  
22 ~~of the repeal.~~

23           Sec. 2. Tourism Development Authority. (a) Appointment and membership. –  
24 When the Board of Commissioners adopts a resolution levying a room occupancy tax  
25 under this act, it shall~~must~~ also adopt a resolution creating a county Tourism  
26 Development Authority, which shall be a public authority under the Local Government  
27 Budget and Fiscal Control Act. The resolution shall~~must~~ provide for the membership of  
28 the Authority including the members' qualifications and terms of office, and for the  
29 filling of vacancies on the Authority. At least one-fifth of the members must be  
30 individuals who are affiliated with businesses that collect the tax in the county, and at  
31 least three-fourths of the members must be individuals who are currently active in the  
32 promotion of travel and tourism in the county. The Board of Commissioners Authority  
33 shall~~must~~ designate one member of the Authority as chair and shall determine the  
34 compensation, if any, to be paid to members of the Authority.~~chair and one member as~~  
35 treasurer.

36           The Authority ~~shall~~must meet at the call of the chair and ~~shall~~must adopt rules of  
37 procedure to govern its meetings. ~~The Finance Officer for Halifax County shall be the~~  
38 ~~ex officio finance officer of the Authority.~~

39           (b) Duties. – The Authority must expend the net proceeds of the tax levied under  
40 this act for the purposes provided in Section 1 of this act. The Authority shall~~must~~ promote travel, tourism, and conventions in the county, sponsor tourist-related events  
41 and activities in the county, and finance tourist-related capital projects in the county.  
42

1 (c) Reports. ~~—~~ The Authority ~~shall~~must report ~~quarterly and~~ at the close of the  
2 fiscal year to the Board of County Commissioners on its receipts and expenditures ~~for~~  
3 ~~the preceding quarter and~~ for the year in such detail as the Board may require.

4 Sec. 3. This act is effective upon ratification."

5 **SECTION 2.** G.S. 153A-155(g) reads as rewritten:

6 "(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe,  
7 Cabarrus, Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham,  
8 Granville, Halifax, Madison, Montgomery, Nash, New Hanover, Pender, Person,  
9 Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and  
10 Washington Counties, and to the Township of Averagesboro in Harnett County."

11 **SECTION 3.** This act is effective when it becomes law. Halifax County  
12 must ensure that the membership of the Tourism Development Authority is in  
13 compliance with the requirements of this act on or before January 1, 2006.