

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 540

Short Title: Halifax Occupancy Tax.

(Local)

Sponsors: Representative L. Allen.

Referred to: Finance.

March 9, 2005

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 – A tax levied under this section must be levied, administered, collected, and repealed as provided in G.S. 153A-155.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 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~~

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

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

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

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

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

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

39 The following definitions apply to this subsection:

- 40 (1) Net proceeds. – Gross proceeds less the cost to the county of
41 administering and collecting the tax, as determined by the finance
42 officer, not to exceed three percent (3%) of the first five hundred
43 thousand dollars (\$500,000) of the gross proceeds collected each year

1 and one percent (1%) of the remaining gross receipts collected each
2 year.

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

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

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

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

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

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

38 (b) Duties. – The Authority must expend the net proceeds of the tax levied under
39 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
40 and activities in the county, and finance tourist-related capital projects in the county.

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

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

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

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

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