

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1204

Short Title: Lenoir Occupancy Tax.

(Local)

Sponsors: Representatives Frye and Starnes (Primary Sponsors).

Referred to: Finance.

March 29, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE CITY OF LENOIR TO LEVY A ROOM
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO CREATE THE
3 CALDWELL COUNTY DISTRICT U, AND TO AUTHORIZE THE CALDWELL
4 COUNTY DISTRICT U TO LEVY A ROOM OCCUPANCY AND TOURISM
5 DEVELOPMENT TAX.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Occupancy tax. – (a) Authorization and Scope. – The City
9 Council of Lenoir may levy a room occupancy tax of up to three percent (3%) of the
10 gross receipts derived from the rental of any room, lodging, or accommodation
11 furnished by a hotel, motel, inn, tourist camp, or similar place other than a bed and
12 breakfast within the city that is subject to sales tax imposed by the State under
13 G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does
14 not apply to accommodations furnished by nonprofit charitable, educational, or religious
15 organizations when furnished in furtherance of their nonprofit purpose.

16 **SECTION 1.(b)** Administration. – A tax levied under this section shall be
17 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
18 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

19 **SECTION 1.(c)** Distribution and Use of Tax Revenue. – The City of Lenoir
20 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Lenoir
21 Tourism Development Authority. The Authority shall use at least two-thirds of the
22 funds remitted to it under this subsection to promote travel and tourism in the City of
23 Lenoir and shall use the remainder for tourism-related expenditures.

24 The following definitions apply in this subsection:

- 25 (1) Net proceeds. – Gross proceeds less the cost to the city of
26 administering and collecting the tax, as determined by the finance
27 officer, not to exceed three percent (3%) of the first five hundred
28 thousand dollars (\$500,000) of gross proceeds collected each year and
29 one percent (1%) of the remaining gross proceeds collected each year.

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

6 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
7 Lenoir Tourism Development Authority, are designed to increase the
8 use of lodging facilities, meeting facilities, or convention facilities in
9 the city or to attract tourists or business travelers to the city. The term
10 includes tourism-related capital expenditures.

11 **SECTION 2.** Tourism Development Authority. – (a) Appointment and
12 Membership. – When the City Council adopts a resolution levying a room occupancy
13 tax under this act, it shall also adopt a resolution creating the Lenoir Tourism
14 Development Authority, which shall be a public authority under the Local Government
15 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
16 Authority, including the members' terms of office, and for the filling of vacancies on the
17 Authority. At least one-third of the members shall be individuals who are affiliated with
18 businesses that collect the tax in the city, and at least one-half of the members shall be
19 individuals who are currently active in the promotion of travel and tourism in the city.
20 The City Council shall designate one member of the Authority as chair and shall
21 determine the compensation, if any, to be paid to members of the Authority.

22 The Authority shall meet at the call of the chair and shall adopt rules of
23 procedure to govern its meetings. The Finance Officer for the City of Lenoir shall be the
24 ex officio finance officer of the Authority.

25 **SECTION 2.(b)** Duties. – The Authority shall expend the net proceeds of
26 the tax levied under this act for the purposes provided in Section 1 of this act. The
27 Authority shall promote travel, tourism, and conventions in the city, sponsor
28 tourist-related events and activities in the city, and finance tourist-related capital
29 projects in the city.

30 **SECTION 2.(c)** Reports. – The Authority shall report quarterly and at the
31 close of the fiscal year to the Lenoir City Council on its receipts and expenditures for
32 the preceding quarter and for the year in such detail as the City Council may require.

33 **SECTION 3.** Administrative provisions. – G.S. 160A-215(g) reads as
34 rewritten:

35 "(g) This section applies only to Beech Mountain District W, to the Cities of
36 Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings
37 Mountain, Lenoir, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville,
38 Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of
39 Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Franklin, Kure Beach,
40 Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Troutman,
41 West Jefferson, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery
42 and Brunswick Counties."

43 **SECTION 4.** Chapter 472 of the 1987 Session Laws is repealed.

1 **SECTION 5.** Occupancy Tax. – (a) Caldwell County District U Created. –
2 Caldwell County District U is created as a taxing district. Its jurisdiction consists of that
3 part of Caldwell County that is located outside of the incorporated area of the Town of
4 Blowing Rock. Caldwell County District U is a body politic and corporate and has the
5 power to carry out the provisions of this act. The Caldwell County Board of
6 Commissioners shall serve ex officio as the governing body of the district, and the
7 officers of the county shall serve as the officers of the governing body of the district. A
8 simple majority of the governing body constitutes a quorum, and approval by a majority
9 of those present is sufficient to determine any matter before the governing body, if a
10 quorum is present.

11 **SECTION 5.(b)** Authorization and Scope. – The governing body of
12 Caldwell County District U may levy a room occupancy tax of up to three percent (3%)
13 of the gross receipts derived from the rental of any room, lodging, or accommodation
14 furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is
15 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
16 addition to any State or local sales or room occupancy tax. This tax does not apply to
17 accommodations furnished by charitable, educational, or religious institutions or
18 nonprofit organizations when furnished in furtherance of their nonprofit purpose.

19 **SECTION 5.(c)** Administration. – A tax levied under this act shall be levied,
20 administered, collected, and repealed as provided in G.S. 153A-155 as if Caldwell
21 County District U were a county. The penalties provided in G.S. 153A-155 apply to a
22 tax levied under this act.

23 **SECTION 5.(d)** Distribution and Use of Tax Revenue. – Caldwell County
24 District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to
25 the Caldwell County District U Tourism Development Authority created pursuant to
26 Section 6 of this act. The Authority shall use at least two-thirds of the proceeds
27 distributed to it to promote travel and tourism in the district and shall use the remainder
28 for tourism-related expenditures in the district. In accordance with the North Carolina
29 Constitution and the United States Constitution, the tax proceeds may be used only for
30 the direct benefit of the jurisdiction of Caldwell County District U. None of the
31 proceeds may be used to promote travel or tourism in areas within Caldwell County that
32 are outside of the district or for tourism-related expenditures in the county that are
33 outside of the district.

34 The following definitions apply in this act:

- 35 (1) Net proceeds. – Gross proceeds less the cost to the county of
36 administering and collecting the tax, as determined by the finance
37 officer, not to exceed three percent (3%) of the first five hundred
38 thousand dollars (\$500,000) of gross proceeds collected each year and
39 one percent (1%) of the remaining gross receipts collected each year.
- 40 (2) Promote travel and tourism. – To advertise or market an area or
41 activity, publish and distribute pamphlets and other materials, conduct
42 market research, or engage in similar promotional activities that attract
43 tourists or business travelers to the area. The term includes
44 administrative expenses incurred in engaging in the listed activities.

- 1 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
2 the Tourism Development Authority, are designed to increase the use
3 of lodging facilities, meeting facilities, or convention facilities in a
4 county or to attract tourists or business travelers to the county. The
5 term includes tourism-related capital expenditures.

6 **SECTION 6.** Caldwell County District U Tourism Development Authority. –

7 (a) Appointment and Membership. – The Caldwell County Board of Commissioners
8 shall adopt a resolution creating the Caldwell County District U Tourism Development
9 Authority, which shall be a public authority under the Local Government Budget and
10 Fiscal Control Act. The resolution shall provide for the membership of the Authority,
11 including the members' terms of office, and for the filling of vacancies on the Authority.
12 At least one-third of the members must be individuals who are affiliated with businesses
13 that collect the tax in the district, and at least one-half of the members must be
14 individuals who are currently active in the promotion of travel and tourism in the
15 district. The board of commissioners shall designate one member of the Authority as
16 chair and shall determine the compensation, if any, to be paid to members of the
17 Authority.

18 The Authority shall meet at the call of the chair and shall adopt rules of
19 procedure to govern its meetings. The Finance Officer for Caldwell County shall be the
20 ex officio finance officer of the Authority.

21 **SECTION 6.(b)** Duties. – The Authority shall expend the net proceeds of
22 the tax levied under this act for the purposes provided in Section 5 of this act. The
23 Authority shall promote travel and tourism in the district and make tourism-related
24 expenditures in the district.

25 **SECTION 6.(c)** Reports. – The Authority shall report quarterly and at the
26 close of the fiscal year to the Caldwell County Board of Commissioners on its receipts
27 and expenditures for the preceding quarter and for the year in such detail as the board
28 may require.

29 **SECTION 7.** Administrative provisions. – G.S. 153A-155(g) reads as
30 rewritten:

31 "(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe,
32 Cabarrus, Camden, Carteret, Chowan, Clay, Craven, Cumberland, Currituck, Dare,
33 Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Martin, Montgomery,
34 Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person,
35 Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell,
36 Vance, and Washington Counties, to Caldwell County District U and Watauga County
37 District U, and to the Township of Averagesboro in Harnett County."

38 **SECTION 8.** Section 4 of this act becomes effective January 1, 2008, or
39 when the Caldwell County District U levies an occupancy tax under this act, whichever
40 occurs first. The remainder of this act is effective when it becomes law.