

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 923  
SENATE BILL 949

AN ACT TO AUTHORIZE SWAIN COUNTY TO LEVY A ROOM OCCUPANCY  
AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax. (a) Authorization and Scope. The Swain 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). 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 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 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.

(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act 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 and sales upon which the tax is levied.

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

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall

be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act 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. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Distribution and Use of Tax Revenue. Swain County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Swain Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the county through state, national, and international advertising and promotion. No more than twenty- five percent (25%) of the funds remitted to the Authority may be used for salaries, wages, and administrative expenses.

As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

(f) Effective Date of Levy. A tax levied under this act 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 act may be repealed by a resolution adopted by the Swain County Board of Commissioners. Repeal of a tax levied under this act 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 act does not affect a liability for a tax that 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 Development Authority. (a) Appointment and Membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following five members:

- (1) Two tourist-oriented business members appointed by the Swain County Chamber of Commerce; and
- (2) Three tourist-oriented business members appointed by the Swain County Board of Commissioners.

The Chamber shall designate one of its initial appointees to serve a two-year term and one to serve a three-year term. The board of commissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two- year term, and one 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. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

The members of the Authority shall elect from its membership a chairman. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of Swain County shall serve ex officio as the finance officer of the Authority.

(b) Duties. The Authority shall promote travel, tourism, and conventions in Swain County.

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

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1986.