

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 929
SENATE BILL 896

AN ACT TO ALLOW THE LEVY OF A ROOM OCCUPANCY AND TOURISM
DEVELOPMENT TAX IN THE CITIES OF CONOVER, GOLDSBORO,
HENDERSONVILLE, AND HICKORY.

The General Assembly of North Carolina enacts:

Section 1. Levy of Tax. (a) The Cities of Hickory and Conover may by joint resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax. The Cities of Goldsboro and Hendersonville may by resolution, after not less than 10 days public notice and after a public hearing held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability, therefore, shall begin and continue only on and after the first day of a calendar month set in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 2. Occupancy Tax. (a) The room occupancy and tourism development tax that may be levied under this act shall not be less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the levying unit now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax.

(b) Any other municipality in Catawba County may by resolution provide for levy of an occupancy tax when accommodations exist within that jurisdiction. The provisions, procedures and limitations of this act shall apply to such municipalities. Jurisdictions other than Hickory and Conover that levy the tax under this act may provide funds to the Tourism Development Advisory Council but are not required to do so. Funds not so provided may be used for purposes permitted by law. This subsection shall not apply to the Cities of Goldsboro and Hendersonville.

Sec. 3. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) a business that offers to rent fewer than five units;
- (3) educational organizations;
- (4) summer camps; and
- (5) charitable, benevolent, and other nonprofit organizations.

Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable to the levying jurisdiction in monthly installments on or before the 25th 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 25th day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's omission as provided by the State under G.S. 160A-175.

(c) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this act or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by the 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.

Sec. 5. Collection of Tax. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect room occupancy tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. This 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 governing bodies. The room occupancy tax levied pursuant to this act 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 levying jurisdictions shall design, print, and furnish to all appropriate businesses in the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 6. Disposition of Taxes Collected. (a) The taxing city shall remit one hundred percent (100%) of the net proceeds of the occupancy tax to the Tourism Development Advisory Council. "Net proceeds" means gross proceeds.

(b) The Tourism Development Advisory Council shall allocate 100 percent (100%) of the net proceeds of the occupancy tax in a fiscal year for improving, leasing, constructing, financing, operating, or acquiring facilities and properties as needed to provide for a civic center facility and development of tourism, support services, tourist-related events and any other appropriate activities for providing tourism-related facilities and/or attractions.

(c) Provision of a civic center facility shall be a priority use of funds.

(d) The taxing city shall distribute the amounts due to the Tourism Development Advisory Council monthly.

(e) The levying jurisdiction may contract with another governmental unit to collect and disperse the funds directly to the Tourism Development Advisory Council.

Sec. 7. Appointment, Duties of the Tourism Development Advisory Council. (a) When the Cities of Hickory, Goldsboro and Conover adopt a resolution levying a tax under this act, they shall also adopt a resolution creating a Tourism Development Advisory Council. When the City of Goldsboro or Hendersonville adopts a resolution levying a tax under this act, it shall adopt a resolution creating a Tourism Development

Advisory Council. The membership of the Hickory/Conover Tourism Development Advisory Council, the membership of the Goldsboro Tourism Development Advisory Council, and the membership of the Hendersonville Tourism Development Advisory Council are as follows:

- (1) Three owners/operators of hotels, motels, or other taxable accommodations in the Cities of Hickory and Conover; two of whom shall be appointed by the Hickory City Council and one appointed by Conover City Council. The City of Goldsboro shall appoint three owners/operators of hotels, motels, or other taxable tourism accommodations to its Tourism Development Advisory Council. The City of Hendersonville shall appoint three owners/operators of hotels, motels, or other taxable tourism accommodations to its Tourism Development Advisory Council.
- (2) Three individuals who have demonstrated an interest in convention and tourism development and do not own or operate hotels, motels, or other taxable tourism accommodations, one of whom shall be appointed by the Catawba County Chamber of Commerce, one appointed by the Hickory City Council and one by the Conover City Council. The City of Goldsboro shall appoint three individuals who have demonstrated an interest in conventions and tourism development in the Goldsboro area, and who do not own or operate hotels, motels, or other taxable tourism accommodations. The City of Hendersonville shall appoint to its Tourism Development Advisory Council three individuals who have demonstrated an interest in conventions and tourism development in the Hendersonville area, and who do not own or operate hotels, motels, or other taxable tourism accommodations.
- (3) Three ex officio members shall be the City Managers of Hickory and Conover and Executive Vice President of the Catawba County Chamber of Commerce. If other municipal corporations levy the tax and allocate same to the Council, their chief appointed official, as defined in N.C. General Statutes, Chapter 160A, Article 7, Part 2, shall also serve as an ex officio member of the Council. The City of Goldsboro shall appoint three ex officio members which shall include the city manager, the executive vice-president of the Goldsboro Chamber of Commerce, and the mayor of the City of Goldsboro. The City of Hendersonville shall appoint the following three ex officio members to its Tourism Development Advisory Council: a member of the Henderson County Board of Commissioners, the executive vice-president of The Greater Hendersonville Chamber of Commerce, and the mayor of the City of Hendersonville.

(b) All members of the Council shall serve without compensation. Travel expenses, as approved in the annual budget, may be provided by the Tourism Development Advisory Council. Vacancies in the Council shall be filled by the appointing authority of the member creating the vacancy.

(c) 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 which will be staggered and may serve no more than two consecutive three-year terms. The members shall elect a chairperson and treasurer, who shall serve for a term of two years. The Council shall meet at the call of the chairperson and shall adopt rules of procedure to govern its meeting as provided by Robert's Rules of Order.

Sec. 8. Contracts Authorized. (a) The Tourism Development Advisory Council may contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds are levied by this act or other revenues.

(b) The Tourism Development Advisory Council shall prepare an annual budget and shall report quarterly and at the close of the fiscal year to the governing body that has jurisdiction of activities pursuant to Section 6(b) and 6(c) of this act on their receipts and expenditures for the preceding quarter and year in such detail as the municipal corporation may require. An audit will be conducted as part of the municipal corporation's audit contract.

Sec. 9. Repeal of Levy. (a) The Cities of Hickory and Conover may by joint resolution repeal the levy of the room occupancy tax levied by them. The Cities of Goldsboro and Hendersonville may by resolution repeal the levy of the room occupancy tax levied by them. No repeal of taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Sec. 10. Legislation enacted to authorize all counties to levy a room occupancy tax repeals this act unless the statewide act specifically exempts this act.

Sec. 10.1. Section 10 does not apply to the Cities of Goldsboro and Hendersonville.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.