

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 962  
HOUSE BILL 1649

AN ACT TO ALLOW HENDERSON COUNTY TO LEVY A ROOM OCCUPANCY  
AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. (a) Levy of Tax. The Board of Commissioners of Henderson County 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. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners 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.

(b) Scope of Tax. The county room occupancy and tourism development tax that may be levied under this act shall be three percent (3%) 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 that is located outside the corporate limits of the City of Hendersonville but is otherwise inside the county and is 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. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) educational organizations; and
- (3) summer camps.

(c) 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 Henderson County. These records shall be available for inspection by Henderson County on request during regular business hours. 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 Henderson County Finance Officer 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.

An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted by him to the county a discount of two percent (2%) of the amount collected.

(d) 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 upon which the tax is levied.

A return filed with the Henderson 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.

(e) 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 in addition to any other penalty, with an additional tax of five percent (5%) 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) and imprisonment not to exceed six months.

(f) Use and Distribution of Tax Revenue. Henderson County shall distribute the net proceeds of the tax on a quarterly basis to the Greater Hendersonville Chamber of Commerce to be used by the Travel and Tourism Committee in the promotion of travel, tourism, and conventions in the county. The Travel and Tourism Committee shall be advised by the County Tourism Development Committee.

As used in this subsection "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Henderson 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. Appointment, Duties of Tourism Development Committee. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating a County Tourism Development Committee, which shall be an advisory committee to the Travel and Tourism Committee of the Chamber of Commerce and shall be composed of the following nine members:

- (1) A county commissioner appointed by the board of county commissioners, who shall serve as a voting member;

- (2) A member of the Hendersonville City Council appointed by the board of county commissioners, who shall serve as a voting member;
- (3) Four owners or operators of hotels, motels, or other taxable tourist accommodations appointed by the board of county commissioners, two of whom own or operate hotels, motels, or other accommodations with more than 50 rental units, and two of whom own or operate hotels, motels, or other accommodations with 50 or fewer rental units; and
- (4) Three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate hotels, motels, or other taxable tourist accommodations, recommended as follows: one by the Hendersonville City Council, one by the Greater Hendersonville Chamber of Commerce, and one by the board of county commissioners. Appointments shall be made by the Henderson County Board of Commissioners.

All members of the committee shall serve without compensation. Vacancies in the committee shall be filled by the appointing authority of the member creating the vacancy. 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, except the initial members who shall serve the following terms:

- (1) Members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;
- (2) Of the members appointed pursuant to subdivision (3) above, two shall serve two-year terms and two shall serve three-year terms, as designated by the board of county commissioners;
- (3) Of the three members appointed pursuant to subdivision (4) above, the recommended appointee of the Hendersonville City Council shall serve a one-year term, the recommended appointee of the Greater Hendersonville Chamber of Commerce shall serve a two-year term, and the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms.

The members shall elect a chairman, who shall serve for a term of two years. The committee shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The Finance Officer for Henderson County shall be an ex officio member of the committee.

(b) The Chamber of Commerce may contract with any person, firm or agency to advise and assist it in the promotion of travel, tourism, and conventions. Staff may be employed for this advice and assistance. Staff employed under this act shall be hired and supervised by the Chamber of Commerce, which shall pay the salaries and expenses of this staff.

(c) The Tourism Development Committee shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures 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 10th day of July, 1986.