

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 142
HOUSE BILL 429

AN ACT TO AUTHORIZE THE LEVY OF A ROOM OCCUPANCY AND
TOURISM DEVELOPMENT TAX IN AVERASBORO TOWNSHIP IN
HARNETT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax. (a) Authorization and scope. The Harnett County Board of Commissioners may by resolution, after not less than ten (10) days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax in an amount not to exceed 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 Averagesboro Township 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 institutions or 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 township. 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. As compensation for collecting a tax levied under this act, the operator of a business subject to the tax may retain three percent (3%) of the total tax collected by the operator each month.

(c) Administration. For the purpose of levying and administering the tax authorized by this act, Averagesboro Township shall be a body politic and corporate and shall have the power to carry out the provisions of this act. The Harnett County Board of Commissioners shall serve, ex officio, as the governing body of the Township, and the officers of the board of commissioners shall serve as the officers of the governing body of the township. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

The Harnett County Board of Commissioners, as the governing body of Averagesboro Township, 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. The township shall design, print, and furnish to all appropriate businesses and persons in the

township the necessary forms for filing returns and instructions to ensure the full collection of the tax. 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 township. 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 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 thirty (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. The township shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Averasboro Township Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to develop, promote, and advertise travel and tourism in Averasboro Township, to sponsor tourist-oriented events and activities for Averasboro Township, to operate and maintain museums and historic sites throughout Averasboro Township, and to purchase, operate, and maintain a convention facility for Averasboro Township. As used in this subsection, "net proceeds" means gross proceeds less the cost to the township 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 Harnett County Board of Commissioners. 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 an Averasboro Township Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. There shall be seven members of the Authority as follows:

- (1) Two members appointed by the board of commissioners from nominations submitted by the Dunn Area Chamber of Commerce, one who is a hotel or motel operator from Averagesboro Township and one who is a representative of the travel industry;
- (2) The Harnett County Manager, to serve ex officio;
- (3) The Harnett County Commissioner representing Averagesboro Township, to serve ex officio;
- (4) The President of the Dunn Area Chamber of Commerce, to serve ex officio;
- (5) The Vice President of Economic and Industrial Development of the Dunn Area Chamber of Commerce, to serve ex officio; and
- (6) The City Manager of the Town of Dunn, to serve ex officio.

The members appointed by the board of commissioners shall serve for a term of one year; vacancies shall be filled in the same manner as the initial appointments. All of the members, including those who serve ex officio, shall be voting members of the Authority. A majority of the members shall constitute a quorum for the transaction of business and an affirmative vote of the majority of the members present at a meeting of the Authority shall be required to constitute action of the Authority. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

(b) Duties. The authority shall develop, promote, and advertise travel and tourism in Averagesboro Township, sponsor tourist-oriented events and activities for Averagesboro Township, operate and maintain museums and historic sites throughout Averagesboro Township, and purchase, operate, and maintain a convention facility for Averagesboro Township.

(c) Reports. The Authority 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 5th day of May, 1987.