

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 549
HOUSE BILL 114

AN ACT TO AUTHORIZE LINCOLN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO SET THE MAXIMUM COMBINED CITY AND COUNTY ROOM OCCUPANCY TAX RATE FOR LINCOLN COUNTY AND THE CITIES AND TOWNS LOCATED IN LINCOLN COUNTY, AND TO MAKE OTHER LOCAL CHANGES FOR DUPLIN COUNTY AND THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax.

(a) Authorization and Scope.

The Lincoln 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 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(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. The combined occupancy tax rates for Lincoln County and any city or town that is located in Lincoln County and is authorized to levy a room occupancy tax may not exceed six percent (6%).

(b) Collection.

Every operator of a business subject to the tax levied under this section 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 section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth 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 fifteenth 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 county finance officer under this section 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 section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The board of commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) Use of Tax Revenue.

Lincoln County shall use at least two-thirds of the proceeds of the tax revenue to promote travel and tourism and shall use the remaining tax proceeds for tourism-related expenditures. The term "promote travel and tourism" means to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county; the term includes administrative expenses incurred in engaging in the listed activities. The term "tourism-related expenditures" means expenditures that are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county and expenditures by the county to administer and collect the tax; it includes expenditures for the construction or maintenance of a convention or meeting facility to be used primarily by individuals who are not residents of the county and for the construction or maintenance of a coliseum or visitors' center, but does not include other capital expenditures.

(f) Effective Date of Levy.

A tax levied under this section 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 section may be repealed by a resolution adopted by the Lincoln County Board of Commissioners. Repeal of a tax levied under this section 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 section does not affect a liability for a tax that was 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. Chapter 1001 of the 1991 Session Laws is amended by adding a new section to read:

"Sec. 3.1. Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, local boards of education are authorized to enter into contracts for the erection or repair of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative units are located. This section applies only to Duplin

County and to local boards of education for school administrative units in or for Duplin County."

Sec. 3. A town may adopt ordinances applicable in the town and the town's extraterritorial planning jurisdiction to require that developers make payment to the town in lieu of reserving or dedicating recreation areas, where the town's planning and development regulations would otherwise require provision of recreation areas equaling two acres or less. The amount of payment shall be determined through procedures to be established by ordinance and in a manner consistent with G.S. 160A-372. This section applies only to the Town of Chapel Hill.

Sec. 4. Section 1 of this act applies only to Lincoln County. Section 2 of this act applies only to Duplin County and to local boards of education for school administrative units in or for Duplin County. Section 3 of this act applies only to the Town of Chapel Hill.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Marc Basnight
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives