

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 813\*  
Second Edition Engrossed 5/10/89

Short Title: Cabarrus Occupancy Tax.

(Local)

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Sponsors: Representatives Privette, Barbee, and Loflin.

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Referred to: Government.

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March 23, 1989

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING CABARRUS COUNTY TO LEVY A ROOM  
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX AND ESTABLISHING  
3 A CABARRUS COUNTY TOURISM AUTHORITY.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. **Occupancy Tax Levy.** (a) Authorization and Scope. The  
7 Cabarrus County Board of Commissioners may by resolution, after not less than 10  
8 days' public notice and after a public hearing held pursuant thereto, levy a room  
9 occupancy tax of not less than three percent (3%) nor more than five percent (5%) of the  
10 gross receipts derived from the rental of any room, lodging, or similar accommodation  
11 furnished by a hotel, motel, inn, or similar place within the county that is subject to  
12 sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any  
13 State or local sales tax. This tax does not apply to accommodations furnished by  
14 nonprofit charitable, educational, or religious organizations.

15 (b) Collection. On and after the effective date of the levy of the tax, every  
16 operator of a business subject to the tax levied under this act shall collect the tax. This  
17 tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
18 tax shall be stated and charged separately on the sales records, and shall be paid by the  
19 purchaser to the operator of the business as trustees for and on account of the county.  
20 The tax shall be added to the sales price and shall be passed on to the purchaser instead  
21 of being borne by the operator of the business. The county shall design, print, and  
22 furnish to all appropriate businesses and persons in the county the necessary forms for  
23 filing returns and instructions to ensure the full collection of the tax.

1 (c) Administration. The county shall administer a tax levied under this act. A  
2 tax levied under this act is due and payable to the Cabarrus County Finance Officer in  
3 monthly installments on or before the 15th day of the month following the month in  
4 which the tax accrues. Every person, firm, corporation, or association liable for the tax  
5 shall, on or before the 15th day of each month, prepare and render a return on a form  
6 prescribed by the county. The return shall state the total gross receipts derived in the  
7 county in the preceding month from rentals upon which the tax is levied.

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

10 (d) Penalties. A person, firm, corporation, or association who fails or refuses to  
11 file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each  
12 day's omission. In case of failure or refusal to file the return or pay the tax for a period  
13 of 30 days after the time required for filing the return or for paying the tax, there shall  
14 be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional  
15 month or fraction thereof until the tax is paid.

16 Any person who willfully attempts in any manner to evade a tax imposed  
17 under this act or who willfully fails to pay the tax or make and file a return shall, in  
18 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be  
19 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to  
20 exceed six months, or both. The board of commissioners may, for good cause shown,  
21 compromise or forgive the penalties imposed by this subsection.

22 (e) Use and Disposition of Revenue. Cabarrus County shall remit one  
23 hundred percent (100%) of the net proceeds of the occupancy tax to the Cabarrus  
24 County Tourism Authority established under Section 2 of this act. As used in this act,  
25 "net proceeds" means gross proceeds less the direct cost to the county of administering  
26 and collecting the tax, not to exceed five percent (5%) of the amount collected.

27 The Authority may expend occupancy tax revenue remitted to it by the  
28 county during a fiscal year, and any other revenue it receives, only to develop or  
29 promote tourism, tourist-related support services, tourist-related events, tourist-related  
30 activities, or tourist attractions in the county.

31 The Cabarrus County Finance Officer shall distribute the amounts due the  
32 Authority at least monthly.

33 (f) Effective Date of Levy. A tax levied under this act shall become effective  
34 on the date specified in the resolution levying the tax. That date must be the first day of  
35 a calendar month, however, and may not be earlier than the first day of the second  
36 month after the date the resolution is adopted.

37 (g) Repeal. A tax levied under this act may be repealed by a resolution  
38 adopted by the Cabarrus County Board of Commissioners. Repeal of a tax levied under  
39 this act shall become effective on the first day of a month and may not become effective  
40 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a  
41 tax levied under this act does not affect a liability for a tax that attached before the  
42 effective date of the repeal, nor does it affect a right to a refund of a tax that accrued  
43 before the effective date of the repeal.

1       Sec. 2. **Establishment, Appointment, and Duties of Cabarrus County Tourism**  
2 **Authority.** (a)       Establishment and Membership. When the Cabarrus County Board  
3 of Commissioners adopts a resolution levying a room occupancy tax pursuant to this  
4 act, it shall establish and create the Cabarrus County Tourism Authority composed of  
5 nine members, with seats on the Authority numbered one through nine, all of whom  
6 shall be appointed by the board, selected as follows:

7           (1)       Seats 1, 4, and 7 shall be selected by the board at large and shall  
8                   include, but not be limited to, at least one member of the board or the  
9                   Cabarrus County Manager;

10          (2)       Seats 2, 5, and 8 shall be appointed by the board from a list of at least  
11                   three persons submitted by the Concord-Cabarrus Chamber of  
12                   Commerce; and

13          (3)       Seats 3, 6, and 9 shall be appointed by the board from a list of at least  
14                   three persons submitted to the board by the Kannapolis Chamber of  
15                   Commerce.

16       (b)       Terms of Office. Except as otherwise provided in the schedule set forth  
17 below, the term of office of each member of the Authority shall be three years. The  
18 terms shall be staggered so that after the initial members of the Authority are appointed,  
19 three members are appointed each year, implemented as follows:

20           (1)       Seats 1, 2, and 3 shall be appointed initially for one year, and  
21                   thereafter for three years;

22           (2)       Seats 4, 5, and 6 shall be appointed initially for two years, and  
23                   thereafter for three years; and

24           (3)       Seats 7, 8, and 9 shall be appointed initially for three years, and  
25                   thereafter for three years.

26       (c)       Powers and Duties of the Authority. In addition to any other powers and  
27 duties of the Authority otherwise conferred by law, the Authority may contract with any  
28 person, firm, corporation, or agency to assist it in the promotion of travel and tourism  
29 and to carry out the purposes identified in Section 1(e) of this act. The Authority may  
30 accept funds from any source to be used for the purposes stated in Section (1)(e) of this  
31 act.

32           On or before April 1 of each year after the levy of the tax authorized in this  
33 act, the Authority shall prepare an annual budget based upon anticipated revenues and  
34 shall submit the budget to the Cabarrus County Manager for processing and approval  
35 through the regular budget procedure of the County. The Authority shall make  
36 quarterly reports to the board detailing its revenues, expenditures, and activities. The  
37 County may audit the Authority's financial records upon reasonable notice to the  
38 Authority. At the end of each fiscal year, any funds of the Authority not expended,  
39 obligated, or reserved, as approved by the board, shall be remitted to Cabarrus County  
40 for its use.

41       Sec. 3. **Effective Date.** This act is effective upon ratification.