

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 158
HOUSE BILL 592

AN ACT TO AUTHORIZE THE CITY OF WASHINGTON TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax.

(a) Authorization and scope. The Washington City Council may by ordinance, 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 similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city 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, by summer camps, or by businesses that offer to rent no more than five units.

(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date 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 city. 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 city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city 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 city. 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 city 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 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. The city council may, for good cause shown, compromise the civil penalties imposed by this subsection.

Any person who willfully attempts in any manner to evade a tax imposed under this section 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.

(e) Distribution and use of tax revenue. The City of Washington shall, on a monthly basis, remit the net proceeds of the occupancy tax to the City of Washington Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the City of Washington through advertising and promotion, to sponsor tourism-oriented events and activities in the City of Washington, and to finance tourist-related capital projects in the City of Washington. As used in this subsection, "net proceeds" means gross proceeds less the cost to the city of administering and collecting the tax, which may not exceed five percent (5%) of the gross proceeds.

(f) Effective date of levy. A tax under this section shall become effective on the date specified in the ordinance levying the tax. That date must be the first day of a calendar 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 Washington City Council. 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 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 City Council adopts an ordinance levying a room occupancy tax under this act, it shall also adopt an ordinance creating the City of Washington Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The ordinance shall provide that the Authority shall be composed of seven members, as follows:

- (1) A Washington City Council member appointed by the city council.
- (2) Three owners or operators of motels, hotels, or other taxable accommodations in the City of Washington that have at least 48 units, appointed as follows: two by the Washington City Council and one by the Greater Washington Chamber of Commerce.
- (3) Two 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,

appointed as follows: one by the Washington City Council and one by the Greater Washington Chamber of Commerce.

- (4) One member of the Board of Directors of the Greater Washington Chamber of Commerce, appointed by the chamber of commerce.

All members of the Authority shall serve without compensation. Vacancies shall be filled in the same manner as original appointments. Members appointed to fill vacancies shall serve for the remainder of the unexpired term. Within 30 days after appointment, the Authority shall elect its Chair from among the members and create and fill other offices as it wishes. The term of Chair shall be one year with eligibility for reelection. No member may serve as Chair more than two one-year terms in succession. The Authority shall meet at the call of the Chair or of any three members and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Washington shall be the ex officio finance officer of the Authority.

(b) Terms of office. Members of the Authority shall serve three-year terms except that the initial appointees shall serve the following terms:

- (1) Members appointed pursuant to subdivisions (a)(1) and (a)(3) of this section shall serve one-year terms.
- (2) Of the members appointed pursuant to subdivision (a)(2) of this section, the appointees of the Washington City Council shall serve a three-year term and the appointee of the chamber of commerce shall serve a two-year term.

(c) Power and duties. The Authority may contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended. The city council may from time to time determine an appropriate percentage of net proceeds that may be expended by the Authority for administrative services.

(d) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Washington City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the council may require.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 29th day of May, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives