

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 775

Short Title: Alleghany Occupancy Tax.

(Local)

Sponsors: Representatives Judy Hunt; and Wilmoth.

Referred to: Finance.

April 15, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ALLEGHANY COUNTY 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 Alleghany 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 (i) a business that offers to rent fewer than five units, (ii) a summer camp for minors, or (iii) a nonprofit charitable, educational, or religious organization.

(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. The county may require a taxpayer to attach to the form a copy of the taxpayer's most recent sales tax

1 report filed with the Secretary of Revenue. An operator of a business who collects the
2 occupancy tax levied under this section may deduct from the amount remitted to the
3 county a discount of three percent (3%) of the amount collected.

4 (c) Administration. The county shall administer a tax levied under this section.
5 A tax levied under this section is due and payable to the county finance officer in
6 monthly installments on or before the fifteenth day of the month following the month in
7 which the tax accrues. Every person, firm, corporation, or association liable for the tax
8 shall, on or before the fifteenth day of each month, prepare and render a return on a
9 form prescribed by the county. The return shall state the total gross receipts derived in
10 the preceding month from rentals upon which the tax is levied.

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

13 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
14 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for
15 each day's omission. In case of failure or refusal to file the return or pay the tax for a
16 period of 30 days after the time required for filing the return or for paying the tax, there
17 shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to
18 any other penalty, with an additional tax of five percent (5%) for each additional month
19 or fraction thereof until the tax is paid. The board of commissioners may, for good
20 cause shown, compromise or forgive the additional tax penalties imposed by this
21 subsection.

22 Any person who willfully attempts in any manner to evade a tax imposed
23 under this section or who willfully fails to pay the tax or make and file a return shall, in
24 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
25 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
26 exceed six months, or both.

27 (e) Distribution and use of tax revenue. Alleghany County shall, on a
28 quarterly basis, remit one-half of the net proceeds of the occupancy tax to the Alleghany
29 County Chamber of Commerce. The chamber of commerce may spend funds remitted
30 to it under this subsection only to further the development of travel, tourism, and
31 conventions in Alleghany County through State, national, and international advertising
32 and promotion. The chamber of commerce may use no more than one percent (1%) of
33 the funds remitted to it under this subsection for administrative expenses.

34 The county shall retain the remaining net proceeds of the tax and use them
35 only for tourist-related purposes, which may include construction and maintenance of
36 public facilities and buildings, police protection, and emergency services. As used in
37 this subsection, "net proceeds" means gross proceeds less the cost to the county of
38 administering and collecting the tax, as determined by the finance officer.

39 (f) Effective date of levy. A tax levied under this section shall become
40 effective on the date specified in the resolution levying the tax. That date must be the
41 first day of a calendar month, however, and may not be earlier than the first day of the
42 second month after the date the resolution is adopted.

43 (g) Repeal. A tax levied under this section may be repealed by a resolution
44 adopted by the Alleghany County Board of Commissioners. Repeal of a tax levied

1 under this section shall become effective on the first day of a month and may not
2 become effective until the end of the fiscal year in which the repeal resolution was
3 adopted. Repeal of a tax levied under this section does not affect a liability for a tax
4 that was attached before the effective date of the repeal, nor does it affect a right to a
5 refund of a tax that accrued before the effective date of the repeal.

6 Sec. 2. This act is effective upon ratification.