

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 648
SENATE BILL 1685

AN ACT TO AUTHORIZE THE CITY OF KINSTON 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 Kinston City Council 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 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 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 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 or pay the tax 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 Kinston City Council 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) Distribution and use of tax revenue. The City of Kinston shall, on a monthly basis, remit the net proceeds of the occupancy tax to the Kinston-Lenoir County Tourism Development Authority created in Chapter 561 of the 1987 Session Laws, as amended by Chapters 576 and 770 of the 1989 Session Laws and Chapter 76 of the 1991 Session Laws. The Authority shall spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the City of Kinston through advertising and promotion, to sponsor tourist-oriented events and activities in the City of Kinston, and to finance tourist-related capital projects in the City of Kinston. 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 seven percent (7%) of the gross proceeds.

(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 Kinston 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 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. Tourism Development Authority. The Kinston-Lenoir County Tourism Development Authority created in Chapter 561 of the 1987 Session Laws, as amended by Chapters 576 and 770 of the 1989 Session Laws and Chapter 76 of the 1991 Session Laws, 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 for administrative services.

The Authority shall report quarterly and at the close of the fiscal year to the 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. Section 1(d) of Chapter 561 of the 1987 Session Laws reads as rewritten:

"(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this section ~~shall be subject to and 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.~~

~~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.~~ 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 Lenoir County 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."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives