

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 536

Short Title: Mount Airy Occupancy Tax.

(Local)

Sponsors: Senator Foxx.

Referred to: Finance

April 3, 1995

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF MOUNT AIRY 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 Mount Airy 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 up to 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 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 or by nonprofit summer camps when the accommodations are furnished in furtherance of their nonprofit purpose.

(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

1 borne by the operator of the business. The city shall design, print, and furnish to all
2 appropriate businesses and persons in the city the necessary forms for filing returns and
3 instructions to ensure the full collection of the tax. An operator of a business who
4 collects the occupancy tax levied under this section may deduct from the amount remitted
5 to the city a discount equal to the discount the State allows the operator for State sales
6 and use tax.

7 (c) **Administration.** The city shall administer a tax levied under this section. A
8 tax levied under this section is due and payable to the city finance officer in monthly
9 installments on or before the 15th day of the month following the month in which the tax
10 accrues. Every person, firm, corporation, or association liable for the tax shall, on or
11 before the 15th day of each month, prepare and render a return on a form prescribed by
12 the city. The return shall state the total gross receipts derived in the preceding month
13 from rentals upon which the tax is levied.

14 A return filed with the city finance officer under this section is not a public
15 record and may not be disclosed except in accordance with G.S. 160A-208.1.

16 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to
17 file the return or pay the tax required by this section is subject to the civil and criminal
18 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
19 taxes. The Mount Airy Board of Commissioners has the same authority to waive the
20 penalties for a room occupancy tax that the Secretary of Revenue has to waive the
21 penalties for State sales and use taxes.

22 (e) **Distribution and use of tax revenue.** The City of Mount Airy shall, on a
23 quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism
24 Development Authority. The Authority shall use the funds remitted to it under this
25 subsection only to promote travel and tourism in Mount Airy. The following definitions
26 apply in this section:

27 (1) Net proceeds. – Gross proceeds less the cost to the city of administering
28 and collecting the tax, as determined by the finance officer, not to
29 exceed seven percent (7%) of the gross proceeds.

30 (2) Promote travel and tourism. – Advertise and market activities, develop
31 and distribute promotional materials, conduct market research, and
32 engage in other similar promotional activities that attract tourists or
33 business travelers to the area. The term also includes administration of
34 the Mount Airy Tourism Development Authority.

35 (f) **Effective date of levy.** A tax levied under this section shall become
36 effective on the date specified in the resolution levying the tax. That date must be the
37 first day of a calendar month, however, and may not be earlier than June 1, 1995, or the
38 first day of the second month after the date the resolution is adopted, whichever is later.

39 (g) **Repeal.** A tax levied under this section may be repealed by a resolution
40 adopted by the Mount Airy Board of Commissioners. Repeal of a tax levied under this
41 section shall become effective on the first day of a month and may not become effective
42 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
43 tax levied under this section does not affect a liability for a tax that was attached before

1 the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
2 before the effective date of the repeal.

3 Sec. 2. Tourism Development Authority. (a) **Appointment and membership.**
4 When the board of commissioners adopts a resolution levying a room occupancy tax
5 under this act, it shall also adopt a resolution creating a Mount Airy Tourism
6 Development Authority, which shall be a public authority under the Local Government
7 Budget and Fiscal Control Act. The board of commissioners shall appoint the following
8 eight members to the Authority:

- 9 (1) Two individuals who are owners or operators of taxable tourist
10 accommodations in the city.
- 11 (2) Two residents of the city who have experience in the promotion of
12 travel and tourism.
- 13 (3) Two residents of the city who are members of the Mount Airy Chamber
14 of Commerce, selected by the Mount Airy Chamber of Commerce.
- 15 (4) One member of the board of commissioners.
- 16 (5) The city finance officer, who shall serve as an ex officio, nonvoting
17 member.

18 Members of the Authority shall serve without compensation and shall serve for
19 a term of three years. Vacancies shall be filled in the same manner as the original
20 appointment. Members appointed to fill vacancies shall serve for the remainder of the
21 unexpired term. An individual may serve as a member for no more than two consecutive
22 terms. The members shall elect a chair from among the membership, who shall serve for
23 three years. The Authority shall meet at the call of the chair and shall adopt rules of
24 procedure to govern its meetings.

25 (b) **Duties.** The Authority shall expend the net proceeds of the tax levied under
26 this act for the purposes provided in Section 1 of this act. The Authority shall promote
27 travel and tourism in the city. In performing its duties, the Authority may contract with
28 any person, firm, or agency to advise and assist it, and may recommend to the board of
29 commissioners that city staff be employed for this advice and assistance. Any city staff
30 employed upon a recommendation of the Authority shall be hired and supervised by the
31 Authority, which shall pay the salaries and expenses of this staff.

32 (c) **Reports.** The Authority shall report quarterly and at the close of the fiscal
33 year to the board of commissioners on its receipts and expenditures for the preceding
34 quarter and for the year in such detail as the board may require.

35 Sec. 3. This act is effective upon ratification.