

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 337

Short Title: Randolph Occupancy Tax.

(Local)

Sponsors: Representative Culp.

Referred to: Local and Regional Government II, if favorable, Finance.

February 26, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE RANDOLPH COUNTY TO LEVY A ROOM
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX.
3

4 The General Assembly of North Carolina enacts:

5 Section 1. Occupancy tax. (a) **Authorization and scope.** The Randolph County
6 Board of Commissioners may by resolution, after not less than 10 days' public notice and
7 after a public hearing held pursuant thereto, levy a room occupancy tax of up to five
8 percent (5%) of the gross receipts derived from the rental of any room, lodging, or
9 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the
10 county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This
11 tax is in addition to any State or local sales tax. This tax does not apply to
12 accommodations furnished to nonprofit charitable, educational, or religious organizations
13 for use in furthering their nonprofit purpose.

14 (b) **Collection.** Every operator of a business subject to the tax levied under this
15 section shall, on and after the effective date of the levy of the tax, collect the tax. This
16 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
17 tax shall be stated and charged separately from the sales records and shall be paid by the
18 purchaser to the operator of the business as trustee for and on account of the county. The
19 tax shall be added to the sales price and shall be passed on to the purchaser instead of
20 being borne by the operator of the business. The county shall design, print, and furnish to

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

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

13 A return filed with the county finance officer under this section is not a public
14 record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S.
15 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 Randolph County Board of Commissioners has the same authority to waive
20 the 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.** Randolph County shall, on a
23 quarterly basis, remit the net proceeds of the occupancy tax to the Randolph Tourism
24 Development Authority. The Authority may use these funds and any other revenue it
25 receives only to develop or promote travel and tourism and for tourism-related
26 expenditures in Randolph County. The Authority shall use at least two-thirds of the
27 funds remitted to it under this subsection to promote travel and tourism in Randolph
28 County and shall use the remainder for tourism-related expenditures.

29 The following definitions apply in this subsection:

- 30 (1) Net proceeds. – Gross proceeds less the cost to the county of
31 administering and collecting the tax, as determined by the finance
32 officer, not to exceed three percent (3%) of the gross proceeds.
- 33 (2) Promote travel and tourism. – To advertise or market an area or activity,
34 publish and distribute pamphlets and other materials, conduct market
35 research, or engage in similar promotional activities that attract tourists
36 or business travelers to the area; the term includes administrative
37 expenses incurred in engaging in the listed activities.
- 38 (3) Tourism-related expenditures. – Expenditures that are designed to
39 increase the use of lodging facilities in the county or to attract tourists or
40 business travelers to the county. The term includes tourism-related
41 capital expenditures and other expenditures that, in the judgment of the
42 Authority, will facilitate and promote tourism. Examples of tourism-
43 related expenditures include expenditures to create, advertise, promote,

1 and support cultural programs, events, festivals, public park and
2 recreation areas, historic preservation and museums, beautification
3 projects, parking facilities, and other public amenities and services.

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

8 (g) **Repeal.** A tax levied under this section may be repealed or reduced by a
9 resolution adopted by the Randolph County Board of Commissioners. Repeal or
10 reduction of a tax levied under this section shall become effective on the first day of a
11 month and may not become effective until the end of the fiscal year in which the repeal
12 resolution was adopted. Repeal or reduction of a tax levied under this section does not
13 affect a liability for a tax that was attached before the effective date of the repeal, nor
14 does it affect a right to a refund of a tax that accrued before the effective date of the
15 repeal.

16 Section 2. Tourism Development Authority. (a) **Appointment and membership.**
17 When the board of commissioners adopts a resolution levying a room occupancy tax
18 under this act, it shall also adopt a resolution creating a county Tourism Development
19 Authority, which shall be a public authority under the Local Government Budget and
20 Fiscal Control Act. The Authority shall be composed of nine members to be appointed
21 by the board of commissioners as follows:

- 22 (1) Seat 1 shall represent the hotel and motel industry, seat 4 shall represent
23 the North Carolina Zoological Park, seat 7 is unrestricted, and seat 9
24 shall represent the county.
- 25 (2) Seats 2, 3, 5, and 6 shall be appointed upon the recommendation of the
26 Archdale/Trinity Chamber of Commerce, the Asheboro/Randolph
27 Chamber of Commerce, the Liberty Chamber of Commerce, and the
28 Randleman Chamber of Commerce, respectively.
- 29 (3) Seat 8 shall represent the hotel and motel industry and shall be
30 appointed upon the recommendation of the Asheboro/Randolph
31 Chamber of Commerce.

32 In appointing and recommending members, each entity shall strive to select
33 individuals who either have expertise in promoting and developing travel and tourism or
34 are affiliated with organizations that collect the tax. The board of commissioners may
35 reject the recommendation of a chamber of commerce and require the chamber to submit
36 additional names within 30 days after the rejection. If the chamber does not submit
37 additional names within this period, the board of commissioners may appoint someone to
38 the seat based upon its own recommendation.

39 All members of the Authority serve at the pleasure of the board of
40 commissioners and may be removed by the board at any time. The board of
41 commissioners shall designate one member of the Authority as chair and another as
42 cochair. Members shall serve without compensation.

1 Except for initial terms, the term of office shall be for three years. No member
2 may serve more than two consecutive three-year terms. The initial terms for seats 1, 2,
3 and 3 shall be one year. The initial terms for seats 4, 5, and 6 shall be two years. The
4 initial terms for seats 7, 8, and 9 shall be three years.

5 The Authority shall meet at the call of the chair and shall adopt bylaws and
6 rules of procedure to govern its meetings. The Finance Officer for Randolph County
7 shall be the ex officio finance officer of the Authority.

8 (b) **Duties.** The Authority shall expend the net proceeds of the tax levied under
9 this act for the purposes provided in Section 1 of this act.

10 (c) **Powers.** In addition to other powers conferred by law, the Authority may
11 contract with any person, firm, corporation, or agency to assist it in carrying out its
12 duties. All contracts the Authority enters into with nonprofit organizations shall require
13 an annual financial audit of any funds expended and a performance audit of contractual
14 obligations. The Authority may accept contributions from any source to be used for the
15 purposes provided in Section 1 of this act.

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

19 Section 3. This act is effective when it becomes law.