

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**SENATE BILL 585**

Finance Committee Substitute Adopted 4/23/97

House Committee Substitute Favorable 6/25/97

Short Title: Lumberton/Shelby Room Tax Changes.

(Local)

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Sponsors:

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Referred to:

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April 1, 1997

**A BILL TO BE ENTITLED**

**AN ACT TO AUTHORIZE THE CITY OF LUMBERTON TO LEVY AN ADDITIONAL, TEMPORARY ROOM OCCUPANCY TAX, TO MODIFY THE PURPOSES FOR WHICH THE LUMBERTON ROOM OCCUPANCY TAX CAN BE USED, AND TO AUTHORIZE THE CITY OF SHELBY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.**

The General Assembly of North Carolina enacts:

Section 1. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session Laws and Chapter 935 of the 1987 Session Laws, as it relates to the City of Lumberton only, is recodified and rewritten as Section 2 of this act.

Section 2. Lumberton Occupancy Tax. (a) Authorization and scope. The Lumberton City Council may 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.

(b) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Lumberton City Council may levy an additional room occupancy

1 tax of up to three percent (3%) of the gross receipts derived from the rental of  
2 accommodations taxable under subsection (a). The levy, collection, administration, and  
3 repeal of the tax authorized by this subsection shall be in accordance with the provisions  
4 of this section. The Lumberton City Council may not levy a tax under this subsection  
5 unless it also levies the tax authorized under subsection (a) of this section. The  
6 authorization to levy this tax expires August 1, 2000.

7 (c) Administration. A tax levied under this section shall be levied, administered,  
8 collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S.  
9 160A-215 apply to a tax levied under this section.

10 The tax collector may collect any unpaid taxes levied under this section  
11 through the use of attachment and garnishment proceedings as provided in G.S. 105-368  
12 for collection of property taxes. The tax collector has the same enforcement powers  
13 concerning the tax imposed by this section as does the Secretary of Revenue in enforcing  
14 the State sales tax under G.S. 105-164.30.

15 (d) Distribution and use of first three percent (3%) tax revenue. The City of  
16 Lumberton shall, on a quarterly basis, remit the net proceeds of the first three percent  
17 (3%) occupancy tax authorized in subsection (a) of this section to the Lumberton  
18 Tourism Development Authority. The Authority shall use at least two-thirds of the funds  
19 remitted to it under this subsection to promote travel and tourism in Lumberton and shall  
20 use the remainder for tourism-related expenditures. Of the funds designated for tourism-  
21 related expenditures, the Authority shall remit the first one hundred fifteen thousand  
22 dollars (\$115,000) to the Carolina Civic Center Foundation, Inc., for tourism-related  
23 expenditures. The Authority may use no more than twenty-three percent (23%) of the  
24 funds remitted to it under this subsection for salaries in carrying out these purposes and  
25 may use no more than ten percent (10%) of the funds remitted to it under this subsection  
26 for other administrative costs in carrying out these purposes.

27 (e) Distribution and use of additional three percent (3%) tax revenue. The  
28 City of Lumberton shall use the net proceeds of the additional tax authorized in  
29 subsection (b) of this section for tourism-related expenditures and other public purposes.

30 (f) The following definitions apply in this section:

31 (1) Net proceeds. – Gross proceeds less the cost to the city of administering  
32 and collecting the tax, as determined by the finance officer, not to  
33 exceed four percent (4%) of the gross proceeds.

34 (2) Promote travel and tourism. – To advertise or market an area or activity,  
35 publish and distribute pamphlets and other materials, conduct market  
36 research, or engage in similar promotional activities that attract tourists  
37 or business travelers to the area; the term includes administrative  
38 expenses incurred in engaging in the listed activities.

39 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
40 the Authority, are designed to increase the use of lodging facilities,  
41 meeting facilities, and convention facilities in a city by attracting  
42 tourists or business travelers to the city. The term includes tourism-  
43 related capital expenditures.

1 Section 3. Lumberton Tourism Development Authority. (a) Appointment and  
2 membership. When the Lumberton City Council adopts a resolution levying a room  
3 occupancy tax under this act, it shall also adopt a resolution creating a city Tourism  
4 Development Authority, which shall be a public authority under the Local Government  
5 Budget and Fiscal Control Act. The resolution shall provide for the members' terms of  
6 office and for the filling of vacancies on the Authority.

7 The Authority shall have eight members appointed by the city council and two  
8 ex officio, nonvoting members, as follows:

- 9 (1) Four individuals who own or operate a hotel or motel in the city.  
10 (2) Four individuals who are currently active in the promotion of travel and  
11 tourism in the city.  
12 (3) The Finance Officer for Lumberton, to serve ex officio.  
13 (4) A member of the Lumberton City Council, designated by the city  
14 council, to serve ex officio.

15 The Lumberton City Council shall designate one member of the Authority as chair and  
16 shall determine the compensation, if any, to be paid to members of the Authority.

17 The Authority shall meet at the call of the chair and shall adopt rules of  
18 procedure to govern its meetings.

19 (b) Duties. The Authority shall expend the net proceeds of the tax levied under  
20 Section 2 of this act for the purposes provided in Section 2 of this act. The Authority  
21 shall promote travel, tourism, and conventions in the city, sponsor tourist-related events  
22 and activities in the city, and finance tourist-related capital projects in the city.

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

26 Section 4. Uniform City Occupancy Tax Provisions. (a) Article 9 of Chapter 160A  
27 of the General Statutes is amended by adding a new section to read:

28 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

29 (a) Scope. – This section applies only to municipalities the General Assembly has  
30 authorized to levy room occupancy taxes. For the purpose of this section, the term 'city'  
31 means a municipality.

32 (b) Levy. – A room occupancy tax may be levied only by resolution, after not less  
33 than 10 days' public notice and after a public hearing held pursuant thereto. A room  
34 occupancy tax shall become effective on the date specified in the resolution levying the  
35 tax. That date must be the first day of a calendar month, however, and may not be earlier  
36 than the first day of the second month after the date the resolution is adopted.

37 (c) Collection. – Every operator of a business subject to a room occupancy tax  
38 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall  
39 be collected as part of the charge for furnishing a taxable accommodation. The tax shall  
40 be stated and charged separately from the sales records and shall be paid by the purchaser  
41 to the operator of the business as trustee for and on account of the taxing city. The tax  
42 shall be added to the sales price and shall be passed on to the purchaser instead of being  
43 borne by the operator of the business. The taxing city shall design, print, and furnish to

1 all appropriate businesses and persons in the city 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 a room occupancy tax may deduct from the amount remitted to the taxing city a  
4 discount equal to the discount the State allows the operator for State sales and use tax.

5 (d) Administration. – The taxing city shall administer a room occupancy tax it  
6 levies. A room occupancy tax is due and payable to the city finance officer in monthly  
7 installments on or before the fifteenth day of the month following the month in which the  
8 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
9 before the fifteenth day of each month, prepare and render a return on a form prescribed  
10 by the taxing city. The return shall state the total gross receipts derived in the preceding  
11 month from rentals upon which the tax is levied. A room occupancy tax return filed with  
12 the city finance officer is not a public record and may not be disclosed except in  
13 accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

14 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to  
15 file a room occupancy tax return or pay a room occupancy tax as required by law is  
16 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a  
17 return for State sales and use taxes. The governing board of the taxing city has the same  
18 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue  
19 has to waive the penalties for State sales and use taxes.

20 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed  
21 or reduced by a resolution adopted by the governing body of the city. Repeal or  
22 reduction of a room occupancy tax shall become effective on the first day of a month and  
23 may not become effective until the end of the fiscal year in which the resolution was  
24 adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax  
25 that was attached before the effective date of the repeal or reduction, nor does it affect a  
26 right to a refund of a tax that accrued before the effective date of the repeal or reduction."

27 (b) This section applies only to the Cities of Lumberton and Shelby.

28 Section 5. Shelby Occupancy Tax. (a) Authorization and scope. The City  
29 Council of the City of Shelby may levy a room occupancy tax of up to three percent (3%)  
30 of the gross receipts derived from the rental of any room, lodging, or accommodation  
31 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is  
32 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in  
33 addition to any State or local sales tax. This tax does not apply to accommodations  
34 furnished by nonprofit charitable, educational, or religious organizations when furnished  
35 in furtherance of their nonprofit purpose.

36 (b) Administration. The city may contract with Cleveland County for tax  
37 collection services relating to the occupancy tax levied under this section. Such a  
38 contract shall be under terms and conditions agreed to by the city and the county and may  
39 be modified from time to time. Except as otherwise provided in this section, a tax levied  
40 under this section shall be levied, administered, collected, and repealed as provided in  
41 G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this  
42 section.

1 (c) Use of tax revenue. The City of Shelby shall use at least two-thirds of the net  
2 proceeds of the occupancy tax to promote travel and tourism in the city and shall use the  
3 remainder for tourism-related expenditures. The City shall use at least two-thirds of the  
4 funds remitted to it under this subsection to promote travel and tourism in Shelby and  
5 shall use the remainder for tourism-related expenditures. The following definitions apply  
6 in this subsection:

- 7 (1) Net proceeds. – Gross proceeds less the cost to the city of administering  
8 and collecting the tax, as determined by the city, not to exceed three  
9 percent (3%) of the first five hundred thousand dollars (\$500,000) of  
10 gross proceeds collected each year and one percent (1%) of the  
11 remaining gross receipts collected each year.
- 12 (2) Promote travel and tourism. – To advertise or market an area or activity,  
13 publish and distribute pamphlets and other materials, conduct market  
14 research, or engage in similar promotional activities that attract tourists  
15 or business travelers to the area; the term includes administrative  
16 expenses incurred in engaging in these activities.
- 17 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
18 the city, are designed to increase the use of lodging facilities, meeting  
19 facilities, and convention facilities in a city by attracting tourists or  
20 business travelers to the city. The term includes tourism-related capital  
21 expenditures.

22 Section 6. Section 2(d) of this act becomes effective August 1, 1997, and  
23 applies to taxes that accrue on or after that date. The remainder of this act is effective  
24 when this act becomes law. Sections 2(b) and 2(e) of this act are repealed effective  
25 August 1, 2000.