

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS55439-SVx-21 (05/17)

Short Title: Ahoskie/Chowan Occupancy Tax. (Local)

Sponsors: Senator Holloman.

Referred to:

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF AHOSKIE TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX AND AMENDING THE
CHOWAN COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

PART I. TOWN OF AHOSKIE OCCUPANCY TAX.

SECTION 1.1. Occupancy Tax. – (a) Authorization and Scope. – The Ahoskie Town 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 town 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 when furnished in furtherance of their nonprofit purpose.

SECTION 1.1.(b) Administration. – A tax levied under this Part shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.1.(c) Distribution and Use of Tax Revenue. – The Town of Ahoskie shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Town of Ahoskie Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the town and shall use the remainder for tourism-related expenditures.

The following definitions apply in this Part:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred

1 thousand dollars (\$500,000) of gross proceeds collected each year and
2 one percent (1%) of the remaining gross receipts collected each year.

3 (2) Promote travel and tourism. – To advertise or market an area or
4 activity, publish and distribute pamphlets and other materials, conduct
5 market research, or engage in similar promotional activities that attract
6 tourists or business travelers to the area. The term includes
7 administrative expenses incurred in engaging in the listed activities.

8 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
9 the Tourism Development Authority, are designed to increase the use
10 of lodging facilities, meeting facilities, or convention facilities in a
11 town or to attract tourists or business travelers to the town. The term
12 includes tourism-related capital expenditures.

13 **SECTION 1.2.** Town of Ahoskie Tourism Development Authority. – (a)
14 Appointment and Membership. – When the Ahoskie Town Council adopts a resolution
15 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
16 town Tourism Development Authority, which shall be a public authority under the
17 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
18 membership of the Authority, including the members' terms of office, and for the filling
19 of vacancies on the Authority. At least one-third of the members must be individuals
20 affiliated with businesses that collect the tax in the town, and at least one-half of the
21 members must be individuals currently active in the promotion of travel and tourism in
22 the town. The town council shall designate one member of the Authority as chair and
23 shall determine the compensation, if any, to be paid to members of the Authority.

24 The Authority shall meet at the call of the chair and shall adopt rules of
25 procedure to govern its meetings. The Finance Officer for the Town of Ahoskie shall be
26 the ex officio finance officer of the Authority.

27 **SECTION 1.2.(b)** Duties. – The Authority shall expend the net proceeds of
28 the tax levied under this Part for the purposes provided in this Part. The Authority shall
29 promote travel, tourism, and conventions in the town, sponsor tourist-related events and
30 activities in the town, and finance tourist-related capital projects in the town.

31 **SECTION 1.2.(c)** Reports. – The Authority shall report quarterly and at the
32 close of the fiscal year to the Ahoskie Town Council on its receipts and expenditures for
33 the preceding quarter and for the year in such detail as the town council may require.

34 **PART II. CHOWAN OCCUPANCY TAX.**

35 **SECTION 2.** S.L. 1989-174 reads as rewritten:

36 "**Section 1.** Occupancy ~~tax.~~Tax. – (a) Authorization and ~~scope.~~Scope. – The
37 Chowan County Board of Commissioners may ~~by resolution, after not less than 10 days'~~
38 ~~public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy
39 tax of three percent (3%) of the gross receipts derived from the rental of any room,
40 lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar
41 place within the county that is subject to sales tax imposed by the State under
42 ~~G.S. 105-164.4(3).~~G.S. 105-164.4(a)(3). This tax is in addition to any State or local
43 sales tax. This tax does not apply to accommodations furnished by nonprofit charitable,

1 educational, or religious ~~organizations.~~organizations when furnished in furtherance of
2 their nonprofit purpose.

3 (a1) Authorization of Additional Tax. – In addition to the tax authorized by
4 subsection (a) of this section, the Chowan County Board of Commissioners may levy an
5 additional room occupancy tax of up to two percent (2%) of the gross receipts derived
6 from the rental of accommodations taxable under subsection (a) of this section. The
7 levy, collection, administration, and repeal of the tax authorized by this subsection must
8 be in accordance with the provisions of this section. Chowan County may not levy a tax
9 under this subsection unless it also levies the tax authorized under subsection (a) of this
10 section.

11 (b) ~~Collection. Every operator of a business subject to the tax levied under this~~
12 ~~section shall, on and after the effective date of the levy of the tax, collect the tax. This~~
13 ~~tax shall be collected as part of the charge for furnishing a taxable accommodation. The~~
14 ~~tax shall be stated and charged separately from the sales records, and shall be paid by~~
15 ~~the purchaser to the operator of the business as trustee for and on account of the county.~~
16 ~~The tax shall be added to the sales price and shall be passed on to the purchaser instead~~
17 ~~of being borne by the operator of the business. The county shall design, print, and~~
18 ~~furnish to all appropriate businesses and persons in the county the necessary forms for~~
19 ~~filing returns and instructions to ensure the full collection of the tax. An operator of a~~
20 ~~business who collects the occupancy tax levied under this section may deduct from the~~
21 ~~amount remitted to the county a discount of three percent (3%) of the amount collected.~~

22 (c) ~~Administration. – The county shall administer a tax levied under this section.~~
23 ~~A tax levied under this section is due and payable to the county finance officer in~~
24 ~~monthly installments on or before the 15th day of the month following the month in~~
25 ~~which the tax accrues. Every person, firm, corporation, or association liable for the tax~~
26 ~~shall, on or before the 15th day of each month, prepare and render a return on a form~~
27 ~~prescribed by the county. The return shall state the total gross receipts derived in the~~
28 ~~preceding month from rentals upon which the tax is levied.~~

29 ~~A return filed with the county finance officer under this section is not a public record~~
30 ~~as defined by G.S. 132-1 and may not be disclosed except as required by law. – A tax~~
31 ~~levied under this section shall be levied, administered, collected, and repealed as~~
32 ~~provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax~~
33 ~~levied in this section.~~

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

42 ~~Any person who willfully attempts in any manner to evade a tax imposed under this~~
43 ~~section or who willfully fails to pay the tax or make and file a return shall, in addition to~~
44 ~~all other penalties provided by law, be guilty of a misdemeanor and shall be punishable~~

1 by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six
2 months, or both.

3 (e) ~~Distribution and use of tax revenue.~~Use of Tax Revenue. – Chowan County
4 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Chowan
5 Tourism Development Authority. ~~The Authority may spend funds remitted to it under~~
6 ~~this subsection only to promote travel and tourism in Chowan County, to sponsor~~
7 ~~tourist-oriented events and activities in Chowan County, and to finance tourist-related~~
8 ~~capital projects in Chowan County. As used in this subsection, "net proceeds" means~~
9 ~~gross~~ The Authority shall use at least two-thirds of the funds remitted to it under this
10 section to promote travel and tourism in Chowan County and the remainder for
11 tourism-related expenditures.

12 The following definitions apply in this act:

13 (1) Net proceeds. – Gross proceeds less the cost to the county of
14 administering and collecting the tax, as determined by the finance
15 officer~~er~~officer, not to exceed three percent (3%) of the first five
16 hundred thousand dollars (\$500,000) of gross proceeds collected each
17 year and one percent (1%) of the remaining gross receipts collected
18 each year.

19 (2) Promote travel and tourism. – To advertise or market an area or
20 activity, publish and distribute pamphlets and other materials, conduct
21 market research, or engage in similar promotional activities that attract
22 tourists or business travelers to the area. The term includes
23 administrative expenses incurred in engaging in these activities.

24 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
25 the Authority, are designed to increase the use of lodging facilities,
26 meeting facilities, and convention facilities in a county by attracting
27 tourists or business travelers to the county. The term includes
28 tourism-related capital expenditures.

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

33 (g) ~~Repeal.~~ A tax levied under this section may be repealed by a resolution
34 adopted by the Chowan County Board of Commissioners. Repeal of a tax levied under
35 this section shall become effective on the first day of a month and may not become
36 effective until the end of the fiscal year in which the repeal resolution was adopted.
37 Repeal of a tax levied under this section does not affect a liability for a tax that was
38 attached before the effective date of the repeal, nor does it affect a right to a refund of a
39 tax that accrued before the effective date of the repeal.

40 "Sec. 2. Tourism Development Authority. = (a) Appointment and
41 membership.Membership. – When the board of commissioners adopts a resolution
42 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
43 county Tourism Development Authority, which shall be a public authority under the
44 Local Government Budget and Fiscal Control Act. ~~The resolution shall provide for the~~

1 ~~membership of the Authority including the members' qualifications and terms of office,~~
2 ~~and for the filling of vacancies on the Authority.~~ At least one-third of the members must
3 be individuals affiliated with businesses that collect the tax in the county and at least
4 one-half must be individuals currently active in the promotion of travel and tourism in
5 the county. The board of commissioners shall designate one member of the Authority as
6 chair and shall determine the compensation, if any, to be paid to members of the
7 Authority.

8 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
9 govern its meetings. The county shall serve as the fiscal agent of the Authority. The
10 Finance Officer for Chowan County shall be the ex officio finance officer of the
11 Authority.

12 (b) Duties. = The Authority shall expend the net proceeds of the tax levied under
13 this act for the purposes provided in Section 1 of this act. The Authority shall promote
14 travel, tourism, and conventions in the county, sponsor tourist-related events and
15 activities in the county, and finance tourist-related capital projects in the county.

16 (c) 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 "Sec. 3. This act is effective upon ratification."

20 **SECTION 3.** This act is effective when it becomes law.