

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 1914

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

Sponsors: Senator Holloman.

Referred to: Finance.

May 25, 2006

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING THE TOWN OF AHOSKIE TO LEVY A ROOM
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX AND AMENDING THE
3 CHOWAN COUNTY OCCUPANCY TAX.
4

5 The General Assembly of North Carolina enacts:

6 **PART I. TOWN OF AHOSKIE OCCUPANCY TAX.**

7 **SECTION 1.1.** Occupancy Tax. – (a) Authorization and Scope. – The
8 Ahoskie Town Council may levy a room occupancy tax of up to three percent (3%) of
9 the gross receipts derived from the rental of any room, lodging, or accommodation
10 furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is
11 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
12 addition to any State or local sales tax. This tax does not apply to accommodations
13 furnished by nonprofit charitable, educational, or religious organizations when
14 furnished in furtherance of their nonprofit purpose.

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16 levied, administered, collected, and repealed as provided in G.S. 160A-215.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

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

23 The following definitions apply in this Part:

- 24 (1) Net proceeds. – Gross proceeds less the cost to the town of
25 administering and collecting the tax, as determined by the finance
26 officer, not to exceed three percent (3%) of the first five hundred
27 thousand dollars (\$500,000) of gross proceeds collected each year and
28 one percent (1%) of the remaining gross receipts collected each year.

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

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

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

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

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

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

32 **PART II. CHOWAN OCCUPANCY TAX.**

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

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

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

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

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

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

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

40 ~~Any person who willfully attempts in any manner to evade a tax imposed under this~~
41 ~~section or who willfully fails to pay the tax or make and file a return shall, in addition to~~
42 ~~all other penalties provided by law, be guilty of a misdemeanor and shall be punishable~~
43 ~~by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six~~
44 ~~months, or both.~~

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

10 The following definitions apply in this act:

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

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

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

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

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

38 "Sec. 2. Tourism Development Authority. = (a) Appointment and
39 ~~membership.~~Membership. – When the board of commissioners adopts a resolution
40 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
41 county Tourism Development Authority, which shall be a public authority under the
42 Local Government Budget and Fiscal Control Act. ~~The resolution shall provide for the~~
43 ~~membership of the Authority including the members' qualifications and terms of office,~~
44 ~~and for the filling of vacancies on the Authority.~~At least one-third of the members must

1 be individuals affiliated with businesses that collect the tax in the county and at least
2 one-half must be individuals currently active in the promotion of travel and tourism in
3 the county. The board of commissioners shall designate one member of the Authority as
4 chair and shall determine the compensation, if any, to be paid to members of the
5 Authority.

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

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

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

17 "Sec. 3. This act is effective upon ratification."

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