

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH10207-LBx-363 (3/1)

Short Title: Local Option Land Transfer Tax. (Public)

Sponsors: Representative Weiss.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ALL COUNTIES AND MUNICIPALITIES TO LEVY A
LOCAL LAND TRANSFER TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a
new Subchapter to read:

"SUBCHAPTER X. LOCAL OPTION COUNTY TAXES.

"Article 60.

"Land Transfer Tax.

"§ 105-600. Short title.

This Article is the County Land Transfer Tax Act.

"§ 105-601. Levy.

(a) Authority. – If the majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a local land transfer tax on instruments conveying interests in real property located in the county, up to a rate of one percent (1%).

(b) Vote. – The board of county commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local land transfer tax in the county as provided in this Article. The election shall be held on a date jointly agreed upon by the board of county commissioners and the board of elections and shall be held in accordance with the procedures of G.S. 163-287.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this Article shall be:

[] FOR [] AGAINST

Real property transfer tax [in named county] at the rate of up to one percent (1%) of value or consideration to be used for public infrastructure purposes.'

1 (d) Resolution. – The board of county commissioners must, upon adoption of a
2 resolution levying a tax under this Article, immediately deliver a certified copy of the
3 resolution to the register of deeds of the county, accompanied by a certified statement
4 from the county board of elections setting forth the results of the special election
5 approving the tax in the county. Upon receipt of these documents, the register of deeds
6 shall administer the tax in the county as provided in this Article.

7 **"§ 105-602. Allocation to municipalities; permitted expenditures.**

8 (a) Each county collecting taxes under this Article shall allocate the funds
9 between itself and any municipalities located within that county in accordance with the
10 formula for the per capita method under G.S. 105-472(b)(1).

11 (b) Each county and municipality receiving funds under this Article may use
12 those funds only for public infrastructure purposes authorized by law for that unit.

13 **"§ 105-603. Scope of tax.**

14 (a) Scope. – A tax levied under this Article does not apply to transfers exempt
15 pursuant to G.S. 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of
16 this Chapter. The tax is in addition to the tax levied by Article 8E of this Chapter. A tax
17 levied under this Article applies to transfers of interests in real property located within
18 the county. If the property is located in two or more counties, a transfer of an interest in
19 the property is taxable only by the county in which the greater part of the property, with
20 respect to value, lies.

21 (b) Basis and Effective Date. – A tax levied under this Article applies to the
22 consideration or value, whichever is greater, of the interest conveyed, including the
23 value of any lien or encumbrance remaining on the property at the time of conveyance.
24 The levy of the tax may become effective only on the first day of a calendar month set
25 in the resolution levying the tax, which may not be earlier than the first day of the
26 second succeeding calendar month after the date the resolution is adopted.

27 **"§ 105-604. Administration.**

28 A tax levied under this Article is payable by the transferor of the interest. Except as
29 otherwise provided in this Article, the provisions of G.S. 105-228.32 through
30 G.S. 105-228.37 apply to a tax levied under this Article. The county must provide
31 metering or similar equipment for the collection of the tax in lieu of the use of tax
32 stamps.

33 **"§ 105-605. Repeal or reduction.**

34 A county may, by resolution, repeal or reduce the rate of a tax levied under this
35 Article. Repeal or reduction of the tax must become effective on the first day of a month
36 and may not become effective until the end of the fiscal year in which the repeal or
37 reduction resolution was adopted. Repeal of a land transfer tax, or reduction of its rate,
38 under this Article does not affect a liability for a tax that attached before the effective
39 date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued
40 before the effective date of the repeal or reduction.

41 **"§ 105-606. Effect on local acts.**

42 If a county levies a land transfer tax under this Article, that county may not also levy
43 a land transfer tax under a local act. This section does not repeal any local act
44 authorizing a county to levy a land transfer tax. However, a county's levy of a land

1 transfer tax under this Article automatically removes the county's authority to levy a
2 land transfer tax under a local act. Repeal of a county's land transfer tax levied under
3 this Article does not revive the county's authority to levy a land transfer tax under a
4 local act.

5 "Article 61.

6 "Municipal Land Transfer Tax.

7 **"§ 105-610. Short title.**

8 This Article is the Municipal Land Transfer Tax Act.

9 **"§ 105-611. Definitions.**

10 As used in this Article, "municipality" means a city as defined by G.S. 160A-1
11 which has a population of 5,000 or over according to the most recent decennial federal
12 census, except that if a municipality is levying a tax under this Article and its population
13 drops below 5,000 in a later census, it may continue the levy.

14 **"§ 105-612. Applicability.**

15 (a) A municipality may levy a tax under this Article only if:

- 16 (1) No county or counties in which it is located have levied a tax under
17 Article 60 of this Chapter or a land transfer tax under a local act by
18 July 1, 2008; or
19 (2) All counties in which it is located have defeated referenda under
20 Article 60 of this Chapter or for a land transfer tax under a local act
21 prior to July 1, 2008.

22 (b) If a municipality levies a tax under this Article, and any county in which it is
23 located levies a tax under Article 60 of this Chapter or under a local act, then the
24 municipal levy is repealed as of the first day of the next fiscal year and, notwithstanding
25 G.S. 105-602, that county shall annually disburse to the municipality from the proceeds
26 of a tax levied under that Article a sum equal to the amount the municipality received
27 from land transfers in that county in the last full fiscal year during which a city tax was
28 in effect but no county tax was in effect (the hold harmless distribution), until the
29 amount that the city otherwise would receive in accordance with G.S. 105-602 under the
30 county levy equals or exceeds the hold harmless distribution. After that time, the
31 distribution to that city is in accordance with G.S. 105-602.

32 **"§ 105-613. Levy.**

33 (a) Authority. – If the majority of those voting in a referendum held pursuant to
34 this Article vote for the levy of the tax, the governing board of a municipality may, by
35 resolution and after 10 days' public notice, levy a local land transfer tax on instruments
36 conveying interests in real property located in the municipality, up to a rate of one
37 percent (1%).

38 (b) Vote. – The governing board of a municipality may direct the board of
39 elections which conducts its elections to conduct an advisory referendum on the
40 question of whether to levy a local land transfer tax in the county as provided in this
41 Article. The election shall be held on a date jointly agreed upon by the governing board
42 of a municipality and the board of elections and shall be held in accordance with the
43 procedures of G.S. 163-287.

1 (c) Ballot Question. – The form of the question to be presented on a ballot for a
2 special election concerning the levy of the tax authorized by this Article shall be:

3 [] FOR [] AGAINST

4 Real property transfer tax [in named municipality] at the rate of up to one
5 percent (1%) of value or consideration to be used for public infrastructure purposes.'

6 (d) Resolution. – The governing board of a municipality must, upon adoption of a
7 resolution levying a tax under this Article, immediately deliver a certified copy of the
8 resolution to the register of deeds of the county or counties in which it is located,
9 accompanied by a certified statement from the board of elections setting forth the results
10 of the special election approving the tax in the municipality. Upon receipt of these
11 documents, the register of deeds shall administer the tax in the municipality as provided
12 in this Article.

13 **"§ 105-614. Permitted expenditures.**

14 Each municipality receiving funds under this Article may use those funds only for
15 public infrastructure purposes authorized by law for that unit.

16 **"§ 105-615. Scope of tax.**

17 (a) Scope. – A tax levied under this Article does not apply to transfers exempt
18 pursuant to G.S. 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of
19 this Chapter. The tax is in addition to the tax levied by Article 8E of this Chapter. A tax
20 levied under this Article applies to transfers of interests in real property located within
21 the municipality. If the property is located in two or more municipalities, or is located
22 partly within the municipality and partly outside any municipality, a transfer of an
23 interest in the property is taxable only by the municipality in which the greater part of
24 the property, with respect to value, lies.

25 (b) Basis and Effective Date. – A tax levied under this Article applies to the
26 consideration or value, whichever is greater, of the interest conveyed, including the
27 value of any lien or encumbrance remaining on the property at the time of conveyance.
28 The levy of the tax may become effective only on the first day of a calendar month set
29 in the resolution levying the tax, which may not be earlier than the first day of the
30 second succeeding calendar month after the date the resolution is adopted.

31 **"§ 105-616. Administration.**

32 A tax levied under this Article is payable by the transferor of the interest. Except as
33 otherwise provided in this Article, the provisions of G.S. 105-228.32 through
34 G.S. 105-228.37 apply to a tax levied under this Article. The register of deeds must
35 provide metering or similar equipment for the collection of the tax in lieu of the use of
36 tax stamps.

37 **"§ 105-617. Repeal or reduction.**

38 A municipality may, by resolution, repeal or reduce the rate of a tax levied under
39 this Article. Repeal or reduction of the tax must become effective on the first day of a
40 month and may not become effective until the end of the fiscal year in which the repeal
41 or reduction resolution was adopted. Repeal of a land transfer tax, or reduction of its
42 rate, under this Article does not affect a liability for a tax that attached before the
43 effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that
44 accrued before the effective date of the repeal or reduction."

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SECTION 2. This act is effective when it becomes law.