

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1982

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

Sponsors: Representatives Weiss; Harrison, Insko, Luebke, and Ross.

Referred to: Finance.

May 9, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE ALL COUNTIES AND MUNICIPALITIES TO LEVY A  
3 LOCAL LAND TRANSFER TAX.

4 The General Assembly of North Carolina enacts:

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

7 **"SUBCHAPTER X. LOCAL OPTION COUNTY TAXES.**

8 "Article 60.

9 "Land Transfer Tax.

10 **"§ 105-600. Short title.**

11 This Article is the County Land Transfer Tax Act.

12 **"§ 105-601. Levy.**

13 (a) Authority. – If the majority of those voting in a referendum held pursuant to  
14 this Article vote for the levy of the tax, the board of county commissioners may, by  
15 resolution and after 10 days' public notice, levy a local land transfer tax on instruments  
16 conveying interests in real property located in the county, up to a rate of one percent  
17 (1%).

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

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

25 [ ] FOR [ ] AGAINST

26 Real property transfer tax [in named county] at the rate of up to one percent  
27 (1%) of value or consideration to be used for public infrastructure purposes.'

28 (d) Resolution. – The board of county commissioners must, upon adoption of a  
29 resolution levying a tax under this Article, immediately deliver a certified copy of the

1 resolution to the register of deeds of the county, accompanied by a certified statement  
2 from the county board of elections setting forth the results of the special election  
3 approving the tax in the county. Upon receipt of these documents, the register of deeds  
4 shall administer the tax in the county as provided in this Article.

5 **"§ 105-602. Allocation to municipalities; permitted expenditures.**

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

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

11 **"§ 105-603. Scope of tax.**

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

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

25 **"§ 105-604. Administration.**

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

31 **"§ 105-605. Repeal or reduction.**

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

39 **"§ 105-606. Effect on local acts.**

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

1 this Article does not revive the county's authority to levy a land transfer tax under a  
2 local act.

3 "Article 61.

4 "Municipal Land Transfer Tax.

5 "§ 105-610. Short title.

6 This Article is the Municipal Land Transfer Tax Act.

7 "§ 105-611. Definitions.

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

12 "§ 105-612. Applicability.

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

14 (1) No county or counties in which it is located have levied a tax under  
15 Article 60 of this Chapter or a land transfer tax under a local act by  
16 July 1, 2008; or

17 (2) All counties in which it is located have defeated referenda under  
18 Article 60 of this Chapter or for a land transfer tax under a local act  
19 prior to July 1, 2008.

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

30 "§ 105-613. Levy.

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

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

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

44 [ ] FOR [ ] AGAINST

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

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

10 **"§ 105-614. Permitted expenditures.**

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

13 **"§ 105-615. 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 municipality. If the property is located in two or more municipalities, or is located  
19 partly within the municipality and partly outside any municipality, a transfer of an  
20 interest in the property is taxable only by the municipality in which the greater part of  
21 the property, with respect to value, lies.

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

28 **"§ 105-616. Administration.**

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

34 **"§ 105-617. Repeal or reduction.**

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

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