

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

2

HOUSE BILL 1057
Committee Substitute Favorable 6/7/22

Short Title: Mitchell County Occupancy Tax Revision.

(Local)

Sponsors:

Referred to:

May 26, 2022

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MITCHELL COUNTY TO LEVY AN ADDITIONAL ROOM
OCCUPANCY TAX OF UP TO THREE PERCENT AND TO MAKE OTHER
ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 141 of the 1987 Session Laws, as amended by Section 21(m)
of S.L. 2007-527, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Mitchell County Board of
Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public
hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross
receipts derived from the rental of ~~any room, lodging, or similar~~ an accommodation ~~furnished by
a hotel, motel, inn, or similar place~~ within the county that is subject to sales tax imposed by the
State under ~~G.S. 105-164.4(3).~~ 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.~~

(a1) Additional tax. – In addition to the tax authorized by subsection (a) of this section,
the Mitchell County Board of Commissioners may levy an additional room occupancy tax of up
to three percent (3%) of the gross receipts derived from the rental of accommodations taxable
under subsection (a) of this section. The levy, collection, administration, and repeal of the tax
authorized by this subsection shall be in accordance with the provisions of this section. Mitchell
County may not levy a tax under this subsection unless it also levies the tax authorized under
subsection (a) of this section.

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

~~(c) Administration.—The county shall administer a tax levied under this section. A tax
levied under this section is due and payable to the county finance officer in monthly installments
on or before the 20th day of the month following the month in which the tax accrues. Every~~



1 person, firm, corporation, or association liable for the tax shall, on or before the 20th day of each
2 month, prepare and render a return on a form prescribed by the county. The return shall state the
3 total gross receipts derived in the preceding month from rentals upon which the tax is levied.

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

8 (d) ~~Penalties.~~ A person, firm, corporation, or association who fails or refuses to file the
9 return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission.
10 ~~In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time~~
11 ~~required for filing the return or for paying the tax, there shall be an additional tax, as a penalty,~~
12 ~~of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five~~
13 ~~percent (5%) for each additional month or fraction thereof until the tax is paid.~~

14 ~~Any person who willfully attempts in any manner to evade a tax imposed under this section~~
15 ~~or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties~~
16 ~~provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one~~
17 ~~thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The Board of~~
18 ~~Commissioners may, for good cause shown, compromise or forgive the penalties imposed by this~~
19 ~~subsection.~~

20 (e) ~~Distribution and use of tax revenue.~~ ~~revenue.~~ – Mitchell County shall, on a quarterly
21 basis, remit the net proceeds of the occupancy tax to the Mitchell County Chamber of Commerce.
22 ~~The Chamber of Commerce may spend funds remitted to it under this subsection only to promote~~
23 ~~travel and tourism in Mitchell County, to sponsor tourist oriented events and activities in~~
24 ~~Mitchell County, and to finance tourist related capital projects in Mitchell County. As used in~~
25 ~~this subsection, "net proceeds" means gross proceeds less the cost to the county of administering~~
26 ~~and collecting the tax, as determined by the finance officer.~~ Tourism Development Authority. The
27 Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote
28 travel and tourism in Mitchell County and shall use the remainder for tourism-related
29 expenditures.

30 The following definitions apply in this subsection:

- 31 (1) Net proceeds. – Gross proceeds less the cost to the county of administering
32 and collecting the tax, as determined by the finance officer, not to exceed three
33 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
34 proceeds collected each year and one percent (1%) of the remaining gross
35 proceeds collected each year.
- 36 (2) Promote travel and tourism. – To advertise or market an area or activity,
37 publish and distribute pamphlets and other materials, conduct market research,
38 or engage in similar promotional activities that attract tourists or business
39 travelers to the area; the term includes administrative expenses incurred in
40 engaging in the listed activities.
- 41 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
42 Mitchell County Tourism Development Authority, are designed to increase
43 the use of lodging facilities, meeting facilities, or convention facilities in the
44 county or to attract tourists or business travelers to the county. The term
45 includes tourism-related capital expenditures.

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

50 (g) ~~Repeal.~~ A tax levied under this section may be repealed by a resolution adopted by
51 the Mitchell County Board of Commissioners. ~~Repeal of a tax levied under this section shall~~

1 ~~become effective on the first day of a month and may not become effective until the end of the~~
2 ~~fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section~~
3 ~~does not affect a liability for a tax that was attached before the effective date of the repeal, nor~~
4 ~~does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

5 "Sec. 2. Tourism Development Authority. (a) Appointment and membership. When the
6 board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall
7 also adopt a resolution creating a county Tourism Development Authority, which shall be a
8 public authority under the Local Government Budget and Fiscal Control Act. The resolution shall
9 provide for the membership of the Authority, including the members' terms of office, and for the
10 filling of vacancies on the Authority. At least one-third of the members shall be individuals who
11 are affiliated with businesses that collect the tax in the county, and at least one-half of the
12 members shall be individuals who are currently active in the promotion of travel and tourism in
13 the county. The board of commissioners shall designate one member of the Authority as chair
14 and shall determine the compensation, if any, to be paid to members of the Authority.

15 The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern
16 its meetings. The finance officer of Mitchell County shall be the ex officio finance officer of the
17 Authority.

18 (b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act
19 for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism,
20 and conventions in Mitchell County, sponsor tourist-related events and activities in the county,
21 and finance tourist-related capital projects in the county.

22 (c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to
23 the board of county commissioners on its receipts and expenditures for the preceding quarter and
24 for the year in such detail as the board may require.

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

26 **SECTION 2.** G.S. 153A-155(g) reads as rewritten:

27 "(g) Applicability. – Subsection (c) of this section applies to all counties and county
28 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of
29 a local act, subsection (c) supersedes that provision. The remainder of this section applies only
30 to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,
31 Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
32 Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood, Henderson,
33 Jackson, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, New Hanover,
34 Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham,
35 Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance,
36 Washington, Wayne, and Wilson Counties, to Harnett County District H, New Hanover County
37 District U, Surry County District S, Watauga County District U, Wilkes County District K,
38 Yadkin County District Y, and the Township of Averasboro in Harnett County and the Ocracoke
39 Township Taxing District."

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