

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

H

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**HOUSE BILL 204
Committee Substitute Favorable 4/29/21**

Short Title: Hertford County Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 4, 2021

A BILL TO BE ENTITLED

AN ACT TO CREATE HERTFORD COUNTY DISTRICT H AND TO AUTHORIZE THE
LEVY OF AN OCCUPANCY TAX IN THE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 979 of the 1987 Session Laws, as amended by Section 21(z) of S.L. 2007-527 and only as it applies to Hertford County, is rewritten and recodified as Sections 2 and 3 of this act. This act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the law rewritten and recodified by this act before the effective date of this act, nor does it affect the right to any refund or credit of a tax that accrued under the law rewritten and recodified by this act before the effective date of this act.

SECTION 2. Occupancy Tax. – (a) Authorization and Scope. – The Hertford County Board of Commissioners may levy a room occupancy tax of 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 county 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.

SECTION 2.(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 2.(c) Definitions. – The following definitions apply in this act:

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

SECTION 2.(d) Distribution and Use of Tax Revenue. – Hertford County shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied under this section to the



1 Hertford County Tourism Development Authority. The Authority shall use at least two-thirds of
2 the funds remitted to it under this subsection to promote travel and tourism in Hertford County
3 and shall use the remainder for tourism-related expenditures.

4 **SECTION 3.** Tourism Development Authority. – (a) Appointment and Membership.
5 – The Hertford County Board of Commissioners shall adopt a resolution creating the Hertford
6 County Tourism Development Authority to conform with the requirements of this section. The
7 Authority shall be a public authority under the Local Government Budget and Fiscal Control Act.
8 The resolution adopted by the Board of Commissioners shall provide for the membership of the
9 Authority, including the members' terms of office, and for the filling of vacancies on the
10 Authority. At least one-third of the members shall be individuals who are affiliated with
11 businesses that collect the tax in the county, and at least one-half of the members shall be
12 individuals who are currently active in the promotion of travel and tourism in the county. The
13 Board of Commissioners shall designate one member of the Authority as chair and shall
14 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
16 govern its meetings. The Finance Officer for Hertford County shall be the ex officio finance
17 officer of the Authority.

18 **SECTION 3.(b)** Duties. – The Authority shall expend the net proceeds of the tax
19 levied under Section 2 of this act for the purposes provided in this act. The Authority shall
20 promote travel, tourism, and conventions in the county, sponsor tourist-related events and
21 activities in the county, and finance tourist-related capital projects in the county.

22 **SECTION 3.(c)** Reports. – The Authority shall report quarterly and at the close of
23 the fiscal year to the Hertford County Board of Commissioners on its receipts and expenditures
24 for the preceding quarter and for the year in such detail as the Board of Commissioners may
25 require.

26 **SECTION 3.(d)** The Hertford County Board of Commissioners shall adopt the
27 resolution required by this section within 60 days of the effective date of this act.

28 **SECTION 4.(a)** Hertford County District H Created. – Hertford County District H
29 is created as a taxing district. Its jurisdiction consists of that part of Hertford County that is
30 located outside of incorporated areas of the Town of Ahoskie and the Town of Murfreesboro.
31 Hertford County District H is a body politic and corporate and has the power to carry out the
32 provisions of this section. The Hertford County Board of Commissioners shall serve ex officio
33 as the governing body of the district, and the officers of the county shall serve as the officers of
34 the governing body of the district. A simple majority of the governing body constitutes a quorum,
35 and approval by a majority of those present is sufficient to determine any matter before the
36 governing body if a quorum is present.

37 **SECTION 4.(b)** Authorization and Scope. – The governing body of Hertford County
38 District H may levy a room occupancy tax of up to three percent (3%) of the gross receipts
39 derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn,
40 tourist camp, or similar place within the district that is subject to sales tax imposed by the State
41 under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy
42 tax.

43 **SECTION 4.(c)** Administration. – A tax levied under this section shall be levied,
44 administered, collected, and repealed as provided in G.S. 153A-155 as if Hertford County
45 District H were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under
46 this section.

47 **SECTION 4.(d)** Definitions. – The following definitions apply in this act:

- 48 (1) Net proceeds. – Gross proceeds less the cost to the district of administering
49 and collecting the tax, as determined by the finance officer, not to exceed three
50 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross

1 proceeds collected each year and one percent (1%) of the remaining gross
2 proceeds collected each year.

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

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

13 **SECTION 4.(e)** Distribution and Use of Tax Revenue. – Hertford County District H
14 shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied under this section
15 to the Hertford County Tourism Development Authority. The Authority shall deposit one
16 hundred percent (100%) of the net proceeds of the room occupancy and tourism development tax
17 levied under this section into a special fund, the cash balance of which shall be deposited at
18 interest or invested in accordance with G.S. 159-30. The Authority shall use at least two-thirds
19 of the funds remitted to it under this subsection to promote travel and tourism in Hertford County
20 District H and shall use the remainder for tourism-related expenditures in the district. In
21 accordance with the North Carolina Constitution and the United States Constitution, the tax
22 proceeds may be used only for the direct benefit of the jurisdiction of Hertford County District
23 H. None of the proceeds may be used for promotion or expenditures in areas within Hertford
24 County that are outside of the district.

25 **SECTION 4.(f)** G.S. 153A-155(g) reads as rewritten:

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

39 **SECTION 5.** This act is effective when it becomes law.