

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL DRS35402-NIF-2

Short Title: Buncombe County Occupancy Tax Modifications. (Local)

Sponsors: Senators Edwards, Daniel, and Mayfield (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE BUNCOMBE COUNTY OCCUPANCY TAX.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Sections 21 and 22 of Part VI of Chapter 908 of the 1983 Session  
5 Laws, as amended by Section 1 of Chapter 942 of the 1985 Session Laws, Section 1 of S.L.  
6 2001-162, Section 60(a) of S.L. 2013-414, and Section 8 of S.L. 2015-128, read as rewritten:

7 "Sec. 21. Disposition of Taxes Collected. – (a) Buncombe County shall remit the net proceeds  
8 of the occupancy tax to the county Tourism Development Authority in Buncombe County. "Net  
9 proceeds" means gross proceeds less the cost to the county of administering and collecting the  
10 tax. ~~The Authority may not use more than ten percent (10%) of the funds distributed to it pursuant~~  
11 ~~to this subsection for administrative expenses of the Authority tax, not to exceed five percent~~  
12 ~~(5%) of the gross proceeds collected each year.~~

13 (b) The Authority may expend any funds ~~distributed~~ remitted to it pursuant to subsection  
14 (a) of this section only as follows:

15 (1) ~~Three-fourths~~ Two-thirds of the funds ~~may~~ shall be used only (i) to further the  
16 development of travel, tourism, meetings and conventions ~~events~~ in the county  
17 through ~~State, national, and international advertising marketing, advertising,~~  
18 ~~sales, and promotion.~~ promotion and (ii) for the administrative expenses of the  
19 Authority, not to exceed twenty percent (20%) of the net proceeds for the  
20 applicable fiscal year of the Authority. For purposes of this provision,  
21 administrative expenses shall include expenses of the Authority for salaries,  
22 benefits, operations, and facilities.

23 (2) ~~The Authority shall create a~~ The remainder shall be split evenly between the  
24 following funds created by the Authority, with no portion of the remainder  
25 being used for operational expenses:

26 a. ~~The Tourism Product Development Fund and, in order to further~~  
27 ~~economic development in the county, shall credit the remainder of the~~  
28 ~~funds to the Tourism Product Development Fund. The purpose of the~~  
29 ~~fund shall be~~ Fund. The Authority shall use monies in the Fund to  
30 provide financial assistance for major tourism projects in order to  
31 significantly increase patronage of lodging facilities in in, and further  
32 economic development in, Buncombe County.

33 b. The Legacy Investment From Tourism Fund. The Authority shall use  
34 monies in the Fund to provide financial assistance for tourism-related  
35 projects that are designed to (i) increase patronage of lodging facilities,  
36 meeting facilities, and convention facilities by attracting tourists,



1 business travelers, or both and (ii) benefit the community at large in  
2 Buncombe County.  
3 (c) The Authority shall administer and spend the funds in the Tourism Product  
4 Development Fund as follows:

- 5 (1) The Authority shall create a Product Development Committee to review and  
6 evaluate proposals from applicants for tourism capital ~~projects and to projects,~~  
7 including proposals for noncapital expenditures related to capital investments  
8 of past and future capital projects funded through the Tourism Product  
9 Development Fund. No proceeds may be used for operational expenses. The  
10 Product Development Committee shall make recommendations to the  
11 Authority regarding use and disposition of funds derived from the Tourism  
12 Product Development Fund. A for-profit entity is not eligible to receive funds  
13 or loans from the Tourism Product Development Fund. Only upon  
14 recommendation of the Product Development Committee, and upon a vote of  
15 three-fourths of the current voting members of the Authority to expend such  
16 funds, the Authority may award funds to qualified projects in the form of  
17 outright grants of money and may guarantee loans and participate in pledges  
18 of debt service for these ~~projects.~~ projects; provided, however, that no loan  
19 guarantee may exceed the amount committed from the Fund for the project.  
20 Projects must be located in Buncombe County unless the Commissioners of  
21 Buncombe County give specific approval to projects outside the county.  
22 Applicants must provide a feasibility study satisfactory to the Product  
23 Development Committee demonstrating the project's economic value to the  
24 area and the number of estimated new room nights ~~at the project~~ will generate.  
25 (2) To be a qualified project, a project must be expected to ~~significantly~~ increase  
26 patronage of lodging facilities in Buncombe County.  
27 (3) The Authority is not required to exhaust all of the funds generated each year  
28 and may accumulate money in order to create a revolving fund to further the  
29 purposes of this section. The Authority may not ~~commit~~ commit, for purposes  
30 of debt ~~service~~ service, a portion of the net funds in excess of thirty-three  
31 percent (33%) of the average net funds received in any one year over a rolling  
32 three-year average for a period of time in excess of 10 years. ~~The Authority~~  
33 ~~may not commit for purposes of debt service in excess of ten percent (10%)~~  
34 ~~of net funds received in any one year for any single project. 15 years for any~~  
35 one project. The Authority shall not be the sole funding source for any debt  
36 service.  
37 (4) The Product Development Committee need not be comprised solely of  
38 members of the Authority. A majority of the members of the Product  
39 Development Committee must be persons who are owners or operators of  
40 hotels, motels, or ~~other taxable tourist accommodations.~~ bed and breakfasts.

41 (d) The Authority shall administer and spend the funds in the Legacy Investment From  
42 Tourism Fund as follows:

- 43 (1) The Authority shall create a Legacy Investment From Tourism Committee to  
44 review and evaluate proposals from applicants for tourism-related projects,  
45 including proposals for capital and noncapital expenditures and project  
46 administration, design, restoration, maintenance, and rehabilitation as well as  
47 enhancement of natural resources and expansion of necessary infrastructure.  
48 The Legacy Investment From Tourism Committee shall make  
49 recommendations to the Authority regarding use and disposition of funds  
50 derived from the Legacy Investment From Tourism Fund. A for-profit entity  
51 is not eligible to receive funds or loans from the Legacy Investment From

Tourism Fund. The Legacy Investment From Tourism Fund cannot be used for operational expenses. Only upon recommendation of the Legacy Investment From Tourism Committee, and upon a vote of three-fourths of the current voting members of the Authority to expend such funds, the Authority may award funds to qualified projects in the form of outright grants of money and may guarantee loans and participate in pledges of debt service for these projects; provided, however, that no loan guarantee may exceed the amount committed from the Fund for the project. Projects must be located in Buncombe County unless the Commissioners of Buncombe County give specific approval to projects outside the county. Applicants must provide information as to how the project balances visitor and resident needs as part of the application process for a Legacy Investment From Tourism Fund project.

(2) To be a qualified project, a project must be expected to (i) increase patronage of lodging facilities, meeting facilities, and convention facilities by attracting tourists, business travelers, or both and (ii) benefit the community at large in Buncombe County.

(3) The Authority is not required to exhaust all of the funds generated each year and may accumulate money in order to create a revolving fund to further the purposes of this section. The Authority may not commit for purposes of debt service a portion of the net funds in excess of thirty-three percent (33%) of the average net funds received over a rolling three-year average for a period of time in excess of 15 years for any one project. The Authority shall not be the sole funding source for any debt service.

(4) The Legacy Investment From Tourism Committee need not be comprised solely of members of the Authority. A majority of the members of the Legacy Investment From Tourism Committee must be persons who are owners or operators of hotels, motels, or bed and breakfasts.

"Sec. 22. Appointment, Duties of Tourism Development Authority. – (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following 11 members:

(1) ~~A county commissioner appointed by the board of county commissioners;~~ Buncombe County Board of Commissioners, who shall serve as an ex officio, nonvoting member;

(2) ~~A member of the Asheville City Council appointed by the board of county commissioners;~~ Buncombe County Board of Commissioners, who shall serve as an ex officio, nonvoting member;

(3) ~~Six owners or operators of hotels, motels, bed and breakfasts, or vacation rental management companies, four of which own or operate hotels, motels, bed and breakfasts, or vacation rental management companies, or bed and breakfasts,~~ with more than 100 rental units, two of whom shall be appointed by the Asheville City Council and two by the ~~board of county commissioners;~~ Buncombe County Board of Commissioners; and ~~two one~~ of which ~~own or operate~~ owns or operates hotels, motels, bed and breakfasts, or vacation rental management companies, with 100 or fewer rental units, ~~one of whom who~~ shall be appointed by the Asheville City ~~Council~~ Council; and one of which owns or operates hotels, motels, or bed and breakfasts with 100 or fewer rental units, who shall be appointed by the ~~board of county commissioners;~~ Buncombe County Board of Commissioners.

- 1 (4) Three individuals actively involved in the tourist business who have  
 2 participated in tourism ~~promotion and do not own or operate hotels, motels,~~  
 3 ~~or other taxable tourist accommodations, promotion,~~ appointed as follows:  
 4 ~~one by the Asheville City Council, one by the Asheville Area Chamber of~~  
 5 ~~Commerce, and one by the board of county commissioners.~~one vacation rental  
 6 owner or vacation rental management company owner appointed by the  
 7 Buncombe County Board of Commissioners; one executive from a ticketed  
 8 tourist attraction appointed by the Asheville Area Chamber of Commerce; and  
 9 one restaurant owner, owner of a brewery, distillery, or winery open for tours  
 10 or tastings, or executive director of a ticketed arts organization appointed by  
 11 the Asheville City Council.

12 All members of the Authority shall serve without compensation. Vacancies in the Authority shall  
 13 be filled by the appointing authority of the member creating the vacancy. Members appointed to  
 14 fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to  
 15 fill. Members shall serve three-year terms, ~~except the initial members who shall serve the~~  
 16 ~~following terms:~~

- 17 (1) ~~members appointed pursuant to subdivisions (1) and (2) above shall serve~~  
 18 ~~one year terms;~~  
 19 (2) ~~of the members appointed pursuant to subdivision (3) above, one appointee of~~  
 20 ~~the city council and the board of commissioners shall serve a two year term~~  
 21 ~~and one appointee of the city council and the board of commissioners shall~~  
 22 ~~serve a three year term, as designated by the city council and board of county~~  
 23 ~~commissioners;~~  
 24 (3) ~~of the three members appointed pursuant to subdivision (4) above, the~~  
 25 ~~appointee of the Asheville City Council shall serve a one year term, the~~  
 26 ~~appointee of the Asheville Area Chamber of Commerce shall serve a two year~~  
 27 ~~term, and the appointee of the board of county commissioners shall serve a~~  
 28 ~~three year term.~~

29 ~~Members terms and~~ may serve no more than two consecutive terms. The members shall elect a  
 30 chair, who shall serve for a term of two years. The Authority shall meet at the call of the chair  
 31 and shall adopt rules of procedure to govern its meetings. The finance officer for Buncombe  
 32 County shall be the ex officio finance officer of the Authority.

33 ...

34 (d) The following definitions apply in this section:

- 35 (1) Vacation Rental Management Company. – A corporate entity having at least  
 36 five rental units that are available for rent in Buncombe County for more than  
 37 sixty percent (60%) of the days in the calendar year.  
 38 (2) Vacation Rental Management Company Owner. – The owner of a corporate  
 39 entity having at least five rental units that are available for rent in Buncombe  
 40 County for more than sixty percent (60%) of the days in the calendar year.  
 41 (3) Vacation Rental Owner. – The owner of at least one vacation rental unit in  
 42 Buncombe County, registered in compliance with all local and State laws, that  
 43 is available for rent for more than sixty percent (60%) of the days in the  
 44 calendar year."

45 **SECTION 2.** Section 1 of this act becomes effective July 1, 2022. Current members  
 46 of the Authority at the time of the effective date of this act shall serve out their remaining terms  
 47 prior to the appointments contemplated herein. The remainder of this act is effective when it  
 48 becomes law.